

# A company's policy on HIV/AIDS and the workplace

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**T**he necessity of a workplace HIV/AIDS policy for Tata Tea Ltd. was significantly felt because Tata Tea, being an agro-based industry, is dependent on its huge manpower resources to sustain its operations. Perceiving the future impact of HIV/AIDS on this valuable and indispensable human resource, Tata Tea based its workplace policy on HIV/AIDS on the following needs and principles. Tata Tea Ltd. was one of the first 10 companies in the world to be a signatory to these clauses at the 5th International Congress on AIDS in the Asia and the Pacific on October 23, 1999, at the Putra World Trade Centre, Kuala Lumpur.

**To recognise** our responsibility to provide a healthy and equitable work environment for all employees, including those with HIV/AIDS.

**To provide** equal access to available and accurate information, prevention methods, and treatment and research results on HIV/AIDS to employees, in order to empower individuals to make good and necessary decisions about their health.

**To ensure** all employees the right to keep confidential any information, which is highly personal, including information about their HIV/AIDS status.

**To promote** appropriate, comprehensive and sustainable programme development that assures all people and groups be treated fairly and equally and that no groups or individuals should be discriminated against in the context of HIV/AIDS.

**To develop** partnerships with the private and public sector, non-governmental organisations and the community in order to foster better social responsibility.

**To be leaders** in the global corporate community by encouraging and assisting other corporate organisations to be aware and proactive to the challenges posed by HIV/AIDS.

Based on this historic declaration, the following draft policy of Tata Tea Ltd., on HIV/AIDS and the workplace, has been drawn up.

## Tata Tea's commitments

**1. Governmental and company laws:** HIV/AIDS and employment policies will at a minimum comply with the state, company and local laws and agreements.

**2. Pre-employment screening:** Tata Tea Ltd. will not do pre-employment HIV/AIDS screening as part of its fitness to work assessment. These are unnecessary and not required. Screening of this kind refers to direct methods (HIV testing), indirect methods (assessment of risk behaviours), and questions about HIV tests already taken.

**3. Ordinary workplace contact:** Employment and HIV/

AIDS policies will be based on the scientific and epidemiological evidence that people with HIV/AIDS do not pose a risk of transmission of the virus to co-workers through ordinary workplace contact.

**4. Protection of employee:** Persons in the workplace affected by, or perceived to be affected by, HIV/AIDS, will be protected from stigmatisation and discrimination by co-workers, unions, employers or clients. To prevent work disruption and rejection by co-workers of an employee with HIV/AIDS, Tata Tea Ltd. and its unions will undertake education for all employees before such an incident occurs and as needed thereafter. Information and education are essential to maintain the climate of mutual understanding necessary to ensure this protection. All efforts to increase awareness of HIV/AIDS among the workforce with therefore be increased.

**5. HIV/AIDS survey:** HIV/AIDS screening, whether direct, indirect or asking questions about tests already taken, will not be done.

**6. Confidentiality:** Confidentiality regarding all medical information including HIV/AIDS status will be maintained, recognising the principle that employers have a duty to protect confidentiality of the employees medical information.

**7. Benefits:** HIV-infected employees will not be discriminated against and will continue to have access to all standard social security benefits and occupationally related benefits.

**8. Reasonable changes in working arrangements:** HIV infection itself is not associated with any limitation in fitness to work. If fitness to work is impaired by HIV-related illness, reasonable alternative working arrangements with be made.

**9. Continuation of employment:** HIV infection is not a cause for termination of employment. As with many other illnesses, persons with HIV-related illnesses should be able to work as long as medically fit for available appropriate work.

**10. Accommodation:** People with HIV/AIDS with continue to have the accommodation that they are entitled to. They will not be transferred on the basis of complaints received from neighbours.

**11. Management and unions:** The highest levels of management and union leadership unequivocally endorse non-discriminatory employment policies and educational programmes about AIDS and STDs. Support of these programmes will be communicated by Tata Tea Ltd. and the unions in simple, clear and unambiguous terms.

**12. Information, education and communication/behaviour change communication (IEC/BCC):** Tata Tea Ltd. will provide employees with sensitive, accurate, up-to-date education about risk-reduction in their personal lives, through appropriate IEC/BCC programmes carried out through the existing system for health education.

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**13. Condom distribution:** Tata Tea Ltd. will arrange to distribute and make available to employees free condoms at existing outlets like hospitals and crèches. Tata Tea Ltd. will also identify new outlets to promote and increase condom usage in order to prevent HIV infection.

**14. STD care:** Tata Tea Ltd. will continue to provide free treatment of sexually transmitted diseases as part of its free medical treatment scheme. Tata Tea Ltd. will further encourage utilisation of these services by strengthening existing detection and referral systems as well as enlisting new ones. Confidentiality and non-discriminatory policies as mentioned before will be maintained with regard to STD diagnosis.

**15. Health care worker:** In those special settings where there may be a potential risk of exposure to HIV (for example in health care, where workers may be exposed to blood or blood products), Tata Tea Ltd. will provide specific, ongoing education as well as the necessary equipment, to reinforce appropriate infection-control procedures and ensure that they are implemented.

**16. Care of opportunistic diseases:** In accordance with governmental laws and the National AIDS Control Organisation's guidelines, Tata Tea Ltd. will continue to treat opportunistic infections of all HIV/AIDS patients as per the best medical advice available maintaining acceptable standards of health care.

**17. Anti-retroviral therapy:** No commitment from Tata Tea Ltd. is being given presently for treatment with the anti-retroviral, or protease inhibitor class of drugs, or for reimbursements of costs incurred by use of the above, or similar classes of anti-viral drugs.

## Employees' concerns

**1. Informing the employer/Tata Tea Ltd:** There will be no obligation for the employee to inform the employer or the Company (Tata Tea Ltd.) regarding his/her HIV/AIDS status.

**2. Access to services:** Employees and their families will have access to information and educational programmes on HIV/AIDS as well as to relevant counselling and appropriate referral.

**3. Rights and opportunities:** People with HIV/AIDS are entitled to the same rights and opportunities as persons with other serious or life-threatening illnesses.

## General issues

**First aid:** In any situation requiring first aid in the workplace, precautions need to be taken to reduce the risk of transmitting blood-borne infections, including hepatitis B. These standard precautions will be equally effective against HIV transmission.

(Continued from page 82)

10. Article 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

11. U.K.T.S. 6 (1977), Cmnd. 6702

12. Article 17: (1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. (2) Everyone has the right to the protection of the law against such interference or attacks.

13. 1998 (6) SCALE 230; 1998 (8) SCC 296; JT 1998 (7) SC 626

14. Ibid

15. Sections 4, 5 and 6 of Medical Termination of Pregnancy Regulations, 1975 Vide Noti. No. G.S.R. 2543, dated October 10, 1975, published in Gazette of India, Part II, Section 3 (i), October 18, 1975, pp. 2910-11

16. 211 N.Y. 215, 105 N.E. 92 (1914)

17. Consumer Education Research Centre V. Union of India AIR 1995 SC. 922. Para 20 at Page 938

18. Abichandani R.K. Health as Human Right: Role of Courts in Realisation of the Right: Law and Medicine, (An Annual Publication of the Institute of Law and Ethics in Medicine, National Law School of India University, Bangalore) Volume 4, (1998): 1-12

19. Article 25 (1) Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.

20. 1998 (6) SCALE 230; 1998 (8) SCC 296; JT 1998 (7) SC 626

21. AIR 1987 SC 990 at p.995

22. AIR 1996 SC 2426

23. R v Gaud (1994) Times, September 30

24. The Hindu 1998 August 28

25. The Hindu 1998 April 4

26. Mr. X v Hospital Z & Anr. 1998 (6) SCALE 230; 1998 (8) SCC 296; JT 1998 (7) SC 626