

APPENDIX I

DRAFT POLICY ON HIV/AIDS AND OTHER LIFE THREATENING ILLNESSES IN THE WORK PLACE

"The Social Partners recognising that an unchecked expansion of the population suffering from HIV/AIDS and other life threatening illnesses will be reflected increasingly in the work place; and

- *further recognising that such a phenomenon will, considerations for human suffering apart, have social and financial consequences including the payment of increased NIS benefits and additional demands on the allocation of state funds to meet the attendant cost of drugs, health care, counselling and welfare support; and*
- *acknowledging that there will also be implications for all enterprises including the potential for reduced level of productivity and increased replacement costs consequent upon the decimation of the skills and knowledge of those workers affected by HIV/AIDS and other life threatening illnesses; and*
- *further acknowledging that a tripartite approach to HIV/AIDS and other life threatening illnesses in the work place is desirable; and*
- *subscribing to the view that the education of the entire work force provides the best possible defence against the potential impact of HIV/AIDS and other life threatening illnesses on the economy and the resultant devastation of the quality of life for Barbadians, therefore*
- *call for an on-going campaign to inform the public of the impact of HIV/AIDS and other life threatening illnesses on all aspects of Barbadian life,*

- *encourage greater support for those existing agencies which are already either providing the public with educational material or offering services to those actually suffering from HIV/AIDS or other life threatening illnesses.*
- *recommend that there should be a Code of Practice on HIV/AIDS and other life threatening illnesses in the work place and, wherever possible, that such a code should, without infringing the constitutional rights of any party, form part of the collective agreement and be so worded as to protect the rights of workers to confidentiality, privacy and to work as long as possible, as well as protecting the rights of employers to the viability of their enterprises.*
- *further recommend that any such Code of Practice should be rooted in a philosophy which recognises that employees with HIV/AIDS and other life threatening illnesses, if not affected with a significant disability, have the potential for a productive life and that the continuance in normal pursuits, including work, provides the security of established routines, established expectations and opportunities for positive social interaction and may either have therapeutic importance in the remission or recovery process or help to prolong their life, and which in its implementation seeks, inter alia, to*
- *treat all employees with HIV/AIDS and other life threatening illnesses with respect and dignity*
- *balance business needs with compassion to enable such persons to work productively while their health allows*
- *guarantee confidentiality when such persons seek counselling*

- *take reasonable precautions to protect information regarding their health records*
- *provide and maintain an open, informed healthy and safe working environment for all employees*

The Social Partners, in the context of all of the foregoing, offer the following Draft Code of Practice for consideration.

Definition of Terms

HIV – Human Immunodeficiency Syndrome – the name of the virus that causes AIDS

AIDS – Acquired Immunodeficiency Syndrome – a disease caused by infection with the HIV (Human Immunodeficiency Virus) that seriously damages a person's immune system, leaving it at high risk to infection.

Life Threatening Illnesses – Any illness or condition which has the potential to result in the death of an individual is considered a life-threatening illness. Examples of life threatening illnesses are cancers, heart diseases, HIV/AIDS, multiple sclerosis, emphysema and lupus to name a few.

Reasonable Accommodation – Any changes in the work environment or the way things are customarily done that enable an otherwise qualified/competent person with the HIV/AIDS or other life threatening illness to apply for a job, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by other employees without disabilities.

Philosophy – Principles related to how businesses deal with employees with HIV/AIDS or other life threatening illnesses.

Undue Hardship – Financial or other constraints imposed on the business due to the provision of reasonable accommodation for employees with HIV/AIDS or other life threatening illnesses.

Hiring and the right to work

The employer shall not require employees to be tested or to produce evidence of recent testing for HIV/AIDS or any other life threatening illness as a requirement for continued employment.

The employer shall not include on any application forms or ask at any interview for initial employment or promotion any question seeking information on whether applicants have HIV/AIDS or any other life threatening illness, or whether applicants have recently undergone testing for HIV/AIDS or any other life threatening illness, or whether applicants are prepared to undergo testing for HIV/AIDS or any other life threatening illness as a prior requirement for employment.

Desire to work

The employer shall, wherever possible, and on a case by case basis, facilitate those employees with HIV/AIDS or any other life threatening illness who desire to continue working.

Ability to Work

The employer shall have reserved the right to be satisfied, if necessary through a fitness evaluation, that continued attendance at work of employees affected by HIV/AIDS or any other life threatening illness will not impair their ability to perform their duties in a safe and reliable manner, notwithstanding any expressed desire by such persons to continue at work.

Evaluation of fitness to work

The employer may, if having been informed by an employee of his contraction of HIV/AIDS or any other life threatening illness, arrange for a fitness evaluation by a registered medical practitioner mutually agreeable to both parties, provided always that such an evaluation is necessitated by problems at the work place associated with infrequent attendance or unsatisfactory work resulting from inappropriate mental, emotional or physical behaviour caused by HIV/AIDS or any other life threatening illness of which the employer has been informed.

Where it is agreed that an employee shall undergo a fitness evaluation, then all costs associated with the evaluation shall be borne by the employer.

The employer, if initiating discussion on the holding of a fitness evaluation shall:

- *pledge to ensure that the result of any medical evaluation will be confidential and will be discussed only with the employee involved;*
- *seek to ensure that the employee understands the reason for the evaluation and that such an exercise is part of the employer's continuing efforts to assist and support and, where possible, to correct the problem which has been identified.*

Discrimination

The employer undertakes not to discriminate against any employee with HIV/AIDS or any other life threatening illness, and to protect their entitlements in the work place with respect of job applications, hiring, upgrading, advancement, promotion, discharge, discipline, lay-offs, privileges of employment, compensation, training or other terms and conditions of employment.

Reasonable Accommodation

The employer undertakes, wherever possible and feasible, to facilitate any employee with HIV/AIDS or any other life threatening illness with work modifications to allow the employee to perform his job for as long as possible, such individually determined modifications to include

- *flexible hours*
- *greater frequency of breaks*
- *time off for the medical treatment*
- *job restructuring or job transfer*
- *work at home (e.g. provision of computer terminals)*
- *job sharing*

Education and sensitising of employees

The employer shall implement an employee health education programme which, inter alia, emphasises

- *information on the transmission of HIV/AIDS and other life threatening illnesses*
- *adherence to the agreed procedures for the handling of accidents in the work place which may result in the exposure of employees to blood or other body fluids*
- *the responsibility of all employees, particularly those who have contracted HIV/AIDS or any other life threatening illness, to safeguard their work colleagues by refraining from behaviours detrimental to the health and safety of others.*

Support programmes

The employer shall encourage employees to seek assistance and counselling from the appropriate Government agencies or established community groups and services and may invite representatives of agencies offering such counselling or support programmes to participate in the health education programme.

Co-workers concerns

The employer shall give due priority to any concerns expressed by workers relative to HIV/AIDS or any other life threatening illness, particularly those which may pose a threat to their health and safety.

Confidentiality

The employer undertakes to respect the privacy of all employees and not to disclose any information volunteered by an employee that he is suffering from HIV/AIDS or any other life threatening illness.

Responsibility of employees

- *take advantage of opportunities offered by the employer in any programme designed to provide information on all aspects of HIV/AIDS and other life threatening illnesses;*
- *to adhere to agreed procedures for the handling in the work place of accidents which may result in an exposure to blood and other body fluids;*
- *safeguard work colleagues by refraining from behaviour detrimental to the health and safety of others;*
- *to ensure that the respect and dignity to be shown to co-workers is not adversely affected by the knowledge that the co-worker is suffering from HIV/AIDS or any other life threatening illness."*