

Handling of blood products in the workplace

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1. Context

People living with HIV still experience discrimination because of their HIV status. A common arena where discrimination is still experienced is within private services where staff handle, or come into proximity with, blood products whilst they are in the workplace.

A lack of understanding about how HIV is transmitted, about undetectable viral loads and about the safety provided by universal precautions in preventing blood borne virus (BBV) transmission, leads to direct discrimination against people living with HIV where services involving handling of, or proximity to, blood products. Under the Equality Act 2010, HIV is officially classified under the protected characteristic of 'disability' – meaning discrimination against people living with HIV is explicitly illegal under equalities legislation.

This discrimination manifests in a variety of different private service settings, including:

- **Tattoo parlours and piercing shops**
- **Cosmetic surgery clinics**
- **Laboratories testing blood samples for private services or clinical trials**

Each of these settings is different, but the resulting discrimination is often down to a lack of clarity about how blood products can be safely handled in the workplace. A key reason why workplaces discriminate in this way is because health & safety guidance in the UK surrounding BBVs is not up to date nor reflects the realities of HIV today.

2. Case studies of discrimination reported to National AIDS Trust by people living with HIV

1. Direct discrimination in a private laboratory service

A case was reported to us in summer 2022, concerning a private laboratory service that was refusing to process blood samples of people living with HIV. The laboratory in question is part of an allergy testing service, where blood samples are processed as part of this service. Individuals wishing to take allergy tests from this service are posted a test kit from which they give blood samples, which are then posted back to the laboratory for processing and testing.

This company was screening clients before processing their blood samples via a form, asking them if they were living with HIV. If a person reported that they were, the laboratory refused to process their blood samples, citing risk to the safety of their staff. This happened to two separate individuals living with HIV, both of whom had undetectable viral loads. This was a case of direct discrimination under the Equality Act.

National AIDS Trust wrote to this organisation, explaining that they had broken discrimination law and that their safety guidance was incorrect as it did not acknowledge the safety offered by universal precautions, nor the concept of undetectable viral loads.

After much conversation, the organisation accepted that they had broken the law and offered compensatory payments to the individuals they had

discriminated against. After conversation with clinical HIV experts, facilitated by National AIDS Trust, they also accepted there was enough scientific evidence to change their processes. They confirmed that they would no longer ask customers about their HIV or other BBV status, having been reassured that this posed no risk to their staff.

The cause of this practice was identified to be outdated health & safety guidance with regards to HIV, dating from the 1980s. This situation could have been avoided if the organisation in question was aware of the concepts of undetectable viral loads, and about the safety offered by universal precautions in relation to BBV transmission.

2. Charging additional costs for perceived reasonable adjustments in a cosmetic surgery clinic

A case was reported to us in autumn 2022 relating to additional costs placed on people living with HIV who wanted cosmetic surgery procedures with a particular clinic. The individual living with HIV who brought this case to the attention of National AIDS Trust had attempted to book a liposuction procedure (they also had an undetectable viral load). Having disclosed their HIV status to the clinic, they added an additional £1000 charge onto the cost of the procedure, citing extra costs involved in needing to buy new surgical instruments and to have a longer theatre turnover time. Such a charge is unnecessary due to the safety provided by universal precautions (as highlighted elsewhere).

National AIDS Trust wrote to the clinic, pointing to Section 20 of the Equality Act, and that such a practice was discriminatory against a person living with HIV, and was therefore illegal. We also explained the safety offered by universal infection control procedures and explained the science behind undetectable viral loads. We highlighted that, given they had broken discrimination law, the client was at a stage where they were contemplating legal action.

A lack of clear, up-to-date guidance on safe operating procedures for working with BBVs has fuelled this dispute and made it unpleasant for all involved. At the time of writing, this case remains unresolved as access to legal costs for the client is looking challenging.

3. Direct discrimination by a tattoo parlour: three differing approaches

A case was reported to us in autumn 2022 by an individual living with HIV (with an undetectable viral load) who attempted to get a tattoo at three different tattoo parlours. Two of the three parlours discriminated against them, whilst one offered them a tattoo. The contrasting approaches neatly demonstrate the problems related to outdated BBV guidance.

The first parlour this individual approached refused to tattoo them because they were living with HIV, amounting to direct discrimination. The next day, the person who was discriminated against received a phone call from this parlour, apologising. The employee who had refused to tattoo them had done so over fear of HIV infection whilst tattooing – even though standard infection control procedures were enough to keep them safe. However, after researching tattooing people living with HIV, the individual who had discriminated against them had realised there was no scientific basis for his concerns. He therefore apologised to the individual who he had discriminated against, promising to change the policy of not tattooing people living with HIV, and offering them a free tattoo as compensation.

The second parlour the individual approached understood the science and the law, and offered to tattoo them, regardless of their HIV status. The third parlour approached declined to tattoo this individual, citing concerns of risks of needle-stick injury. We wrote to them highlighting the fact that they had directly discriminated against this individual and made them aware of the extremely low risk of HIV transmission by needle-stick injury. We then asked them to apologise to the individual affected and revise their policy to prevent future discriminatory action. They complied with our requests, revising their policy, apologising to the client, also offering to tattoo them.

The fact that three tattoo parlours, all based in one urban locality, had completely different approaches to an individual living with HIV approaching them for a tattoo is worrying. It also demonstrates that a lack of updated guidance on safe prevention of BBV transmission in a tattoo setting is essentially leading to a free-for-all for workplaces – leading some to discriminate and others to not.

Previous examples of discrimination by tattoo parlours have cited other difficulties related to licensing procedures. For example, some local councils require tattoo parlours to provide medical questionnaires to their customers, on the incorrect assumption that knowing a customer's BBV status will automatically prevent BBV transmission. Other parlours have informed us that their insurers will not cover them if they tattoo customers who are living with HIV.

These reported issues are likely because councils and insurers do not know the facts about BBV transmission. These incorrect assumptions are possibly therefore encouraging some premises to discriminate against people living with HIV, to comply with council or insurance requirements. It is vital that the HSE considers how to improve public awareness about BBV transmission to prevent discrimination in these contexts occurring.

Discriminating against a person living with HIV purely because of their HIV status breaks discrimination law. It is important that the HSE consider these interlinked factors.

3.1 The current guidance from Health & Safety Executive about blood borne viruses (BBVs)

The Health & Safety Executive (HSE) are the agency in Great Britain responsible for health & safety at work. This includes ensuring that workers are kept safe from potential infection risks – such as those posed by blood-borne viruses (BBVs), including HIV, Hepatitis B and Hepatitis C. Current HSE guidance on BBVs is available [here](#), and on HIV specifically is available [here](#).

The principal issue with the current HSE guidance is that it is scientifically outdated, links to old scientific advice documents, and does not have enough specific information for specific industries on how to eliminate risk of BBV transmission.

With regards to HIV, a key problem is that guidance on the HSE website is outdated, as it does not consider the concept of undetectable viral loads. If an individual living with HIV has been adhering to antiretroviral therapy (ART), their viral load will be reduced to undetectable levels. This means that they are unable to transmit HIV to others through bodily fluids at all through sex, and it will be nearly impossible for them to transmit HIV through blood. This is known as 'Undetectable = Untransmittable' or 'U=U'.

[The evidence for U=U is extensive, and absolute](#). This therefore needs to be reflected in HSE guidance on BBVs, alongside guidance on universal precautions, to reassure people working with blood products from HIV positive people that there is zero transmission risk. The reason that discrimination still presents in these settings is quite often due to ignorance about the likelihood of transmission from individuals living with HIV.

3.2 Which current HSE guidance on BBVs needs changing

The following pages on the HSE website related to BBVs need altering in the following ways, to help them reflect current scientific understanding of HIV transmission:

- [Avoiding sharps injuries](#) – guidance on healthcare workers needs to be updated – and linked to this [recently published guidance by the DHSC](#).
- [Immunisation](#) and [Hepatitis B vaccination](#) pages – The DHSC Green Book [link](#) needs updating, as the current link is out of date.
- [How to deal with an exposure incident](#): Guidance on post-exposure prophylaxis needs updating to [this link](#).
- [Information, instruction & training](#) – There should be links to specific training providers who can provide training related to transmissibility of BBVs. In its current form, the guidance doesn't provide enough information for employers on where they can access training on BBV transmissions.

There is also no mention in any of the guidance on the concept of U=U, as detailed in the previous section. This needs to be included on the [HIV](#) webpage on the HSE website.

Viral loads are also integral to understanding Hepatitis B and C transmission, although undetectable viral loads for Hepatitis [do not necessarily lead](#) to prevention of transmission as is the case with HIV. For this reason, universal precautions are still important, as is Hepatitis B vaccination for workers exposed to blood products as part of their job role.

3.3 Industry specific guidance identified as needing updating

A key evident concern is that much of the [industry-specific guidance](#) is outdated, as it doesn't mention the fact that people living with HIV who have an undetectable viral load are unable to transmit HIV to others through sex. This is a key advancement in scientific knowledge related to HIV, and its omission from the HSE's website means that many employers will be unaware of the latest information.

This should be changed urgently to prevent unnecessary discrimination from occurring. For example, in 2019 [Public Health England](#) published guidance on 'management of potential exposure to bloodborne viruses in emergency workers', which was created in consultation with HIV sector organisations, emergency sector organisations, clinicians and Government officials. This is best practice for how to create industry specific guidance in this area.

- [Healthcare and related](#) guidance is many years out of date, and much of it has been archived by the National Archives – in 2012 and 2013. [Up-to-date guidance](#) was published in November 2022 by DHSC, this should absolutely be linked to from the HSE website. It is not available on this sector webpage.
- [Beauty industry](#) guidance is from 2007 and is therefore unquestionably out of date. The HSE should work with HIV organisations & the beauty industry to develop appropriate updated guidance.
- [Tattooing, ear, and body piercing](#) guidance is incomplete – as it does not contain any practical information and merely links to the TPI union website rather than a helpful webpage [here](#). There is a joint statement from UK HIV organisations [here](#) about cosmetic treatments, piercing & tattooing, demonstrating the precautions that need to be taken to prevent HIV transmission, which would be valuable to include on this page (as a link, although the content of this statement could help frame guidance on the webpage as well).

- The '[HIV for non-HIV specialists](#)' guidance was published in 2008 and archived in 2013 – this is very out of date and needs replacing with current guidance available [here](#).
- The [resources](#) page on BBVs also needs updating: it would be helpful to have separate guidance on HIV, Hepatitis B and Hepatitis C, and the different risks that they present in the workplace, and the different mitigations that are required. It would be most appropriate to link to the latest DHSC guidance on these issues, and to keep these under review at regular intervals (such as every year).

4 What should be included in updated guidance surrounding the handling of blood products in the workplace

1. The importance of universal precautions:

A key element that this guidance should contain is about the importance of 'universal precautions', as outlined in this [joint statement](#) from across the HIV sector.

Universal precautions are entirely sufficient to protect people working with blood products from risk of BBV transmission, including HIV, and no additional precautions are required. Precautions must be applied universally, and all blood products must be handled as though they potentially have a BBV, since risk of transmission is higher amongst those who are undiagnosed and untreated. Universal precautions are therefore appropriate when handling blood products of people living with HIV who do have a detectable viral load.

Refusing a service to someone living with HIV or making them pay additional charges to access a service implies that either standard infection control procedures are not being implemented universally, or that additional and unnecessary measures are being implemented if someone shares their HIV status with a service provider. Both possibilities are cause for great concern and are unfortunately reported to us commonly by people living with HIV.

In addition, 97 per cent of the estimated 106,890 people living with HIV in the UK today are diagnosed and on effective treatment. This means that the virus is not detectable in their blood and that there is zero risk of HIV transmission sexually and very low risk from their blood products, such that national guidelines do not recommend PEP (post-exposure prophylaxis) in this situation. Conversely, someone who is living with undiagnosed HIV, or someone not on effective treatment, could be at risk of passing HIV on to others. In 2020, it was estimated that 1 in 23 people living with HIV in the UK do not know that they have the virus. This underlines the need for universal precautions.

2. The science behind undetectable viral loads:

A person living with HIV will take anti-retroviral therapy (ART) to maintain immune system function. When a person living with HIV is adherent to treatment (typically for at least 3 to 6 months), they will have what is known as an '[undetectable viral load](#)'. This means that HIV viral particles are undetectable in the individual's blood, meaning that they are nearly always unable to transmit HIV through their bodily fluids. For this reason, the phrase "U=U" or "Undetectable = Untransmissible" was developed. It has been proven through [many studies](#) involving many demographic groups in different countries – but only definitively so for sexual transmission of HIV.

When applied in the context of blood products in the workplace, a person living with HIV who has an undetectable viral load is extremely unlikely to pass on HIV to others from their blood, meaning that there is negligible risk of a worker being put at risk from contact with blood products from most people living with HIV.

The risk of HIV transmission occurring due to spilled blood products is also incredibly low, as HIV cannot survive outside of the body for very long.

3. Responsibilities under the Equality Act 2010:

As mentioned above, a person living with HIV is classified under the Equality Act 2010 as having a 'disability', in [Schedule 1](#). The Equality Act covers discrimination in private services, public services and in employment – and the discrimination experienced by people living with HIV can be experienced in any of these arenas.

The discrimination that results from the inaccuracies identified in the current HSE guidance is typically within the arena of private services. It would be helpful if any updated guidance on the safe handling of blood products in the workplace referred to the following sections of the Equality Act 2010 that organisations must comply with, so that they do not discriminate against people living with HIV:

Direct discrimination (Section 13): A person must not be treated unfavourably because of their protected characteristic. This discrimination must be a conscious decision by an individual or organisation and will often require a comparator to prove discriminatory treatment. Within the context of provision of services, [Section 29](#) of the Equality Act explains how direct discrimination is defined.

For example, an organisation would commit direct discrimination if they refused to test a person's blood purely because they had HIV, or if they refused to tattoo someone purely because they had HIV. Direct discrimination occurs in this case because a person living with HIV experiences less favourable treatment than a person not living with HIV.

Discrimination arising from a disability (Section 15): Discrimination arising from a disability occurs when a person is treated unfavourably because of something connected to their disability, rather than the disability itself, and it cannot be justified. The person discriminating needs to know, or be reasonably expected to know, that the individual has a disability. Unlike direct discrimination, there is no need for a comparator and justification can be made.

Discrimination arising from a disability occurs with regards to a person living with HIV if discrimination occurs that is connected to their HIV status, rather than discrimination against the person themselves. For example, if a laboratory technician living with HIV is forbidden by their organisation from processing blood samples, purely because their organisation does not want to pay additional costs of regular viral load monitoring required for exposure prone procedures, this is classified as discrimination arising from a disability.

Reasonable adjustments (Section 20): Organisations must take positive steps to actively remove disadvantages that people with a disability face in accessing their services. This should be done by accommodating requests for flexibility or providing accessible services. What is considered a 'reasonable adjustment' will depend on the nature of the request (including cost, practicality, and implications) and the size of the organisation(s) involved. Generally, it is unlawful to pass on these additional costs to the person with a disability.

For example, a cosmetic surgery clinic undertakes a workplace safety risk assessment which deems it necessary to implement enhanced cleaning or disinfection measures on equipment after the procedure has taken place. This practice would be scientifically unnecessary as transmission of HIV would be incredibly unlikely – as HIV cannot survive for long outside of the body.

Additionally, the clinic would not legally be allowed to pass this cost onto the patient living with HIV, as they are legally required to make this reasonable adjustment themselves.

Harassment (Section 26): An individual or organisation must not subject a person living with a disability to behaviour that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

For example, a person living with HIV is a regular customer at a piercing shop. One of the employees learns the customer is living with HIV and repeatedly threatens to disclose their HIV status to their colleagues or to other customers. This would be defined as harassment under the Equality Act.

Victimisation (Section 27): An individual or organisation must not treat a person with a protected characteristic less favourably because they have (or are thought to have) made or supported a claim about discrimination.

For example, a person living with HIV makes a direct discrimination complaint against a tattooist at a tattoo parlour that refused to tattoo them. The tattoo parlour then refuses to allow that individual into their shop. This would be considered victimisation.

It should also be made clear in any updated guidance that intent to discriminate by the private service is irrelevant, as discrimination as outlined under any sections of the Equality Act is still against the law.

5. Conclusion and recommendations

As discussed in detail, current guidance on BBV transmission in the workplace produced by the Health & Safety Executive is outdated, and this is causing discrimination against people living with HIV to manifest itself in a variety of private service settings.

Based on the examples and issues discussed in this briefing, National AIDS Trust makes the following recommendations to the Health & Safety Executive:

1. Update the guidance on the Health & Safety Executive website in relation to HIV transmission in the workplace, as outlined above. This should include a commitment to regularly review general and industry-specific website guidance on BBV transmission in the workplace for scientific and legal accuracy, such as on an annual basis. This will prevent guidance from becoming outdated and unapplicable as scientific understanding of BBV virus transmission changes.
2. Create and/or update guidance for the safe handling of blood products within all specific industry settings already identified on the HSE website. This guidance should be developed in consultation with appropriate clinical experts in BBVs such as HIV, Hepatitis B and Hepatitis C, and with organisations representing people living with BBVs.
3. Ensure all guidance produced related to BBV transmission includes an explanation of organisations' responsibilities to not discriminate against people living with HIV under the Equality Act 2010, as outlined above. This will help organisations to understand their legal responsibilities under the Equality Act 2010 are equally as important as adhering to workplace safety legislation in the Health and Safety at Work etc Act 1974.
4. Commit to promoting updated guidance on BBV transmission to workplaces across the country in the same way as other workplace health & safety materials. This is to ensure that all organisations are aware of their legal responsibilities to ensure their workplaces are safe for their staff, as well as customers and/or visitors.
5. Consider running a public information campaign about the safe handling of blood products in the workplace, and how to prevent BBV transmission, to improve public awareness of these identified issues. This could include a discussion of all the elements to be included in general updated guidance on preventing BBV transmission in the workplace, including the requirement not to discriminate against people living with HIV in the provision of services.

If these recommendations are actioned, National AIDS Trust believes we can make workplaces that handle blood products safer for organisations, employees, and customers, and that we can take a positive step towards removing many avenues for stigma and discrimination still experienced by people living with HIV in the UK today.

Contact us

To discuss the contents of this briefing in more detail, please contact:

Adam Freedman
Senior Policy & Campaigns Officer
National AIDS Trust

adam.freedman@nat.org.uk