

# Introduction and Legal Obligations

## What relevance does HIV have to UK schools?

When HIV first emerged into the public eye in the UK it was seen as a very real threat and a danger for everyone. A major Government campaign saw a leaflet delivered to every house outlining the facts, and television advertising campaigns depicted looming icebergs and gravestones. The message was clear, that HIV was an issue here in the UK and people needed to know about it.

Nearly 25 years on and the situation has changed. With over 33 million people living with HIV worldwide HIV has become a symbol of global poverty. News reports focus on celebrities visiting orphans in Africa and rarely mention the epidemic in the UK. Although the UK epidemic did not reach the heights anticipated in the 1980s, numbers continue to increase steadily on a yearly basis. HIV is still a very real issue for over 90,000 people living with HIV in the UK and their families.

HIV is relevant for schools for so many reasons. With the advances in treatment, people infected with HIV are surviving, working, having children, bringing up families and growing old. However, where HIV stands apart from other long-term illnesses is the key to why it is so important for schools to educate themselves and their pupils and to see HIV as an important part of social inclusion.

The stigma and discrimination faced by people living with HIV has not disappeared in two decades. Only by schools acknowledging this and working with their pupils to promote positive attitudes, can we actually go any way towards challenging this. Schools are key to achieving a real change in public understanding and attitudes in the long term.

Schools also have a specific responsibility to promote disability equality and HIV is included in this duty. This pack can help you meet that responsibility. In order for people living with HIV to achieve equality we all need to understand the condition, eradicate stigma and discrimination, and create a tolerant society. This can start with your school.

### **An HIV positive curriculum**

As the main route of transmission for HIV in the UK is through sex, historically education about HIV has been limited to sex education. But this over-simplifies one of the biggest health challenges the world faces and neglects the realities of living with HIV.

This resource offers numerous suggestions of where HIV can be included throughout the curriculum at key stages 3 and 4 - including ICT, Humanities, Geography, English/Drama, Citizenship, and Science, demonstrating how HIV impacts on so many areas of life.

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## **HIV is not just a sexual health issue**

Preventing transmission is essential in stopping the spread of HIV. Clear, factually correct information being available in schools is essential in order to create a greater understanding.

But with just over 1,500 HIV positive young people under 19 accessing care in the UK and an estimated 20,000 children living in a family where one or more members is HIV positive, for many young people of school age HIV is not an abstract condition, it is a very real part of their lives and represents a major burden.

*It was kind of hard, because just before sex education we did viruses and bacteria. We talked about HIV and I had to like somehow keep quiet, but I had to – had to act normal but not so quiet because if I act at all quiet they would have thought that – they would have got some kind of suspicion...  
(Lewis)*

## **HIV is also a social issue**

Advancements in treatment mean that people live with HIV, rather than die of HIV-related illnesses. But the stigma and discrimination faced by people living with HIV is as prominent today as it was 25 years ago. Cases of children excluded from schools once their HIV status becomes known, of teachers with HIV being hounded from their jobs, and of families driven from their homes and communities are still reported.

HIV is now defined as a disability from the point of diagnosis, therefore people with HIV are legally protected against discrimination, but until society changes its attitudes, the level of secrecy and stigma will remain. This is why schools need to include HIV-related issues in areas such as Citizenship and work to ensure bullying is not tolerated.

## **HIV is also a political issue**

A key political issue at present is asylum and immigration. Often used in a negative way by the media, this area is rarely out of the public eye. The sensationalism of both asylum and HIV is hard for the media to resist, and negative inaccurate portrayals of these issues are often found headlining papers.

HIV, as with other viruses, thrives in situations where there is poor sanitation, conflict, poverty and war. A number of asylum seekers entering the UK come from countries where there are high rates of HIV. They are legitimate asylum seekers, but have additional health needs. This situation presents complex issues, which schools can explore, debate and research. They also feed into negative stereotyping, which schools can address.

## **HIV is also an issue for the courts**

Since 2003, a number of people in the UK have been convicted and imprisoned for recklessly infecting a consenting sexual partner. Recent criminal prosecutions for HIV transmission have created an enormous amount of fear and anxiety amongst people living with HIV. Such cases also potentially discourage HIV testing.

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## HIV is also an economic issue

HIV is an economic issue both for the NHS and for the international support the UK is giving to developing countries. In the UK it is estimated that preventing just one case of HIV could save up to £250,000 in direct medical costs alone. The impact of HIV on the developing world economy is enormous. Whole generations are dying at the age when they should be providing for their families. The economic cost of HIV, whether it is medical or in human lives, is phenomenal. We are part of a global community, and this affects us.

## HIV is also a legal issue

Schools have two duties to fulfil, promoting community cohesion and equality. These recognise the role schools have to play in highlighting social issues and creating a more just society. Teaching about HIV through the curriculum and in assemblies can be part of your school's initiatives to meet both of these duties.

## The duty to promote community cohesion

Schools (excluding independent schools) have a duty to promote community cohesion. Academy schools will also have this duty in their Funding Agreement. With the two most affected groups in the UK being gay men and African men and women, stigma and discrimination around HIV are closely linked with homophobia and racism. In the developing world, the impact of HIV on women is tied in with issues of equality. We've explained how HIV touches on all aspects of society, the lesson plans in this pack will help you explore issues around difference, racism, immigration, gender equality, homophobia, and much more.

## The duty to promote disability equality

Schools (excluding independent schools) also have a duty to actively promote disability equality, including equality for people living with HIV. This is a proactive duty which aims to tackle institutional discrimination, promote disability equality and address issues such as harassment whilst also ensuring public bodies, such as schools, promote positive attitudes towards disabled people. See below for an outline of your school's legal duties around disability equality. Please share it with your senior staff and governors so your school can ensure it is doing all it can to promote equality for people living with HIV.

*HIV is a global issue, a social issue, a political issue, a legal issue, an economic issue and an individual issue. It impacts on individuals, families, communities, and countries.*

*Schools are in a position where they can effect change. They can challenge attitudes, place HIV in a better context, offer correct information and help prevent the spread of the virus. This will ensure that the children you teach today can make a real difference in the future.*

## Discrimination and your School

Under the provisions of the Equality Act (EA 2010), it is illegal to discriminate against pupils or staff because they have HIV. The Act also requires that the school should make reasonable adjustments to ensure people living with HIV can work or study at the school. Despite these legal protections, there are still cases where children are refused a place or excluded and staff are sacked or not employed solely because they are living with HIV.

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## Tanya's Story

*Tanya was due to start at the primary school attached to her nursery school. Tanya's mother went to speak to the head teacher of the primary school to ask her some questions and find out more about the school. During the meeting, Tanya's mother told the head teacher that Tanya was HIV positive. Tanya's mother explains the reaction:*

*She immediately sat back and physically pulled away from me. Her body language shouted at me! It gave her thoughts away! The utter disbelief on her face was apparent! She said: 'we haven't had one of those before'.*

*Tanya's mother suggested that the head teacher talk to her staff about the matter, as she did not want her daughter to go to a school that wouldn't support her. When she went back to the head teacher, she was told that none of the staff wanted to teach Tanya and they thought the dinner ladies should be told of her status. The head teacher suggested that Tanya find another school, and this time not tell them about her status.*

You may read this story and think it happened in the 1980s, when people knew little about HIV and were therefore scared they might catch it from just being around people. In fact, this happened in 2007, when legislation protecting people from this discrimination existed. But where ignorance exists legal rights are not always upheld.

## What the law says

Schools have responsibilities under the EA 2010 both as education providers and as employers. HIV is considered a disability under the EA 2010 and this means discrimination on the basis of someone's HIV status is illegal. The duties of schools in these two roles are laid out below.

## Education Providers

As education providers, schools cannot treat pupils less favourably because of their disability and must make reasonable adjustments to prevent pupils being disadvantaged because of their disability. The EA 2010:

- Protects pupils in admissions
- Prohibits discrimination in the curriculum, teaching and learning and other services which are provided wholly or mainly for students (e.g. school trips)
- Prevents schools excluding a pupil from an institution or course because of their disability.

## Employers

Schools are also employers and have legal obligations towards all their staff, whether they are teachers, cleaners or catering staff. Under the EA 2010, employers cannot discriminate against people living with HIV:

- In employment offers
- In the opportunities for promotion, training, transfer or other benefits
- By dismissing them or subjecting them to negative treatment.

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## For Pupils

### **Be prepared**

The first time you think about how to deal with an HIV disclosure should not be when someone first discloses. All staff at the school should be aware of the legal issues around HIV and know what to do if a child or parent discloses to them. The Special Educational Needs and Disability section of your Local Education Authority should be able to provide support and advice on this issue.

### **Keep personal information confidential**

Any information a parent or pupil gives you about their health should be kept confidential and not shared without their permission. Sharing information without consent could be breaking the law. You should not inform other staff, teaching or non-teaching, about the child's status without parental consent. You may want to ask the parent to disclose the information to one other member of staff who can provide personalised support. You can explain to the parent that it can be helpful for both the head teacher and a teacher chosen by the parent and/or pupil to be aware of the child's status. The teacher can then provide day-to-day support if needed, with assistance from the head teacher.

### **Remember children may not know their status**

Young people may not know they are living with HIV, for example, some young people may know they have a blood disorder they have to take tablets for, but not know exactly what it is. In addition to this, as most of these children will have been born with HIV, disclosing their status means disclosing a parent's status. It is therefore even more important that if a parent confides in you

that you keep the information confidential and do not talk to the child or anyone else about it if the parent has not given their permission.

### **Health and safety**

HIV cannot be passed on through day-to-day contact. All schools should have health and safety measures in place to make sure they are able to deal with accidents or illness. You do not need any extra measures because you know someone is living with HIV, standard health and safety procedures will be enough to ensure that you, your colleagues and your pupils are not at risk.

### **Think about reasonable adjustments**

Schools have a duty to make reasonable adjustments to ensure pupils with disabilities are not put at a substantial disadvantage. Reasonable adjustments depend on the need of the individual, for example for pupils with physical disabilities it may involve ensuring they are able to take part in PE lessons. Pupils living with HIV may not need many adjustments, but you should be prepared to be flexible and do your best to help. Ensuring pupils are able to have time off for clinic appointments and can catch up with work missed could be a reasonable adjustment.

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## For Staff

### **Be prepared**

As with pupils, you should be prepared to respond to staff who are living with HIV in a constructive and understanding manner. You can place positive statements about disability and HIV in your equality and diversity employment policies, and information for new job applicants. This can give important initial indicators to potential job applicants of your determination not to discriminate. Remember that this is not just an issue for your teaching staff. Cleaners, dinner ladies, teaching assistants and other staff must also be protected from discrimination.

NAT produces a range of materials for employers that can help you develop your policies and ensure you are acting within the law.

### **Keep personal information confidential**

You should keep any information about the HIV status of a member of staff confidential, whether you are the head teacher responsible for employment or a colleague trusted with the information. You should not inform other members of staff, the governors or any other person without the individual's consent. The Data Protection Act 1998 specifies that written consent is required for personal sensitive information, such as a physical condition, to be passed on. This includes references you provide to staff who are seeking new employment.

The Information Commissioner's Office has produced a code of practice for employers on ensuring personal information is properly handled. Sometimes you will need a colleague's co-operation to implement a reasonable adjustment, but confidential details must not be disclosed without the consent of the employee concerned.

### **Reasonable adjustments**

If a member of staff has disclosed, talk to them about any reasonable adjustments they may need. They may not need many adjustments, but time off for clinic appointments, or a flexible timetable to help handle side-effects from medication at certain times may be required. Do not assume that the individual will need large amounts of time off, if their treatment is well managed they are unlikely to need more time off than a colleague who is living with HIV.

### **Health and safety**

HIV cannot be passed on through day-to-day contact and a member of staff living with HIV does not pose a risk to your pupils or staff. All health and safety policies should consider risks around blood-borne viruses as a matter of course. You may have concerns about the risk of people preparing food or those caring for children in the playground. Standard procedures around dealing with cuts and blood spills are enough to ensure safety for your staff and pupils. You do not need to do anything extra on top of these standard practices.

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## For Staff and Pupils

### **Create a supportive atmosphere**

Teaching about HIV through the curriculum will help foster a school with a supportive atmosphere around HIV. The best way to tackle discrimination is through education, the more people know about HIV the less afraid they are and the less likely they are to discriminate.

HIV education should be year round, but World AIDS Day on December 1st offers a great opportunity to go all out on highlighting your school's commitment to raising awareness and eradicating discrimination. You could hold a week of activities that include pupils, staff, parents and the local community, ensuring your messages reach a wide audience. Simple things like wearing red ribbons, conducting special assemblies, or holding a school concert can all help with marking World AIDS Day and demonstrating your support for people living with HIV.

If your school is positive about HIV it can help staff and parents feel able to disclose their status if they wish to. Making explicit reference to HIV in your equality and anti-bullying policies will make it clear to everyone that your school will not tolerate HIV-related discrimination.

### **If in doubt, ask for help**

The following organisations can provide further information and advice on HIV and disability law.

### **Equality and Human Rights Commission**

The Equality and Human Rights Commission provides information and advice on discrimination and human rights legislation. The website has a specific section for education providers, where you can find more information on your duties and responsibilities in this area.

[www.equalityhumanrights.com](http://www.equalityhumanrights.com).

### **Children and Young People's HIV Network**

Part of the National Children's Bureau, the Children and Young People's HIV Network provides information on a range of issues relating to HIV and education, including the responsibilities of schools towards pupils with HIV.

[www.ncb.org.uk](http://www.ncb.org.uk)

### **NAT**

NAT has produced a range of information on HIV and employment, outlining both the duties an employer has and the rights employees have and how to exercise them. All these leaflets are available to download from [www.nat.org.uk](http://www.nat.org.uk)