

Disclosure of your HIV status in the workplace

Disclosure of HIV status in the workplace is one of the issues that most concerns people with HIV, as they tend to think it is a legal requirement. Most often, however, it is not.

For most jobs there is no legal requirement to disclose your HIV status, except in very specific cases. Most often, therefore, disclosing your HIV status is your decision alone to take and should not have any negative employment consequences.

When is disclosure of HIV status mandatory?

In certain jobs, it is mandatory for a person to disclose their health status:

1. when required by law, 2. to prevent a situation of risk that may affect third parties, or **3. if it prevents the performance of essential activities** in the workplace.

1. The first case **includes all those jobs which require compulsory medical examination** both on starting and during the course of the work activity. This is the case, for example, of the National Security Forces and Corps. People who do these jobs must undergo compulsory medical examinations, which normally include an HIV test, and answer questions related to medication taken.

Disclosure of HIV status should not have any negative employment consequences, because since 2018 people with HIV may not be prevented from doing these jobs simply because they have HIV.



2. The second case **certain professional healthcare profiles** such as persons who perform medical surgical specialities. Only in these cases is there a requirement to disclose HIV status because of the risk of accidental exposure to HIV that may arise when these people perform the invasive procedures involved in their daily work.

Whether or not the person is undetectable for HIV, his or her viral load must be regularly monitored to avoid situations of risk of HIV transmission during the performance of the invasive procedures in his or her speciality.

If the person's viral load is undetectable, no restrictions would be imposed on the continued performance of the work activities. However, if the viral load is detectable, some restrictions may be imposed on his or her employment functions (e.g., performing invasive medical procedures) until such time as viraemia testing determines that viral load levels have become undetectable again.

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3. The third case refers to the specific situation of a **person with HIV whose health and clinical status prevents the performance of his or her usual functions** (although this is now rare because of advances in treatment). As with other chronic illnesses or disabilities, when our health status prevents us from continuing in our job, we are entitled to report this situation to the occupational risk prevention officer or service so that any necessary appropriate measures may be taken. **The company is therefore required to adapt the workplace to the new health status of employees.**



Can reporting HIV status have consequences?

No. Under no circumstances may HIV status yield any negative consequences such as dismissal for the person with HIV.

Main points:

- A.** Except in very specific cases, people with HIV are not legally obliged to disclose their HIV status in order to get a job. **Only in exceptional cases are people required to disclose whether they have HIV or to take an HIV test.**
- B.** **The law prohibits asking about a job applicant's health status.** Neither is there any obligation for people with HIV to disclose their HIV status to third parties with whom they have some kind of working relationship.
- C.** As a rule, **medical examinations offered by employers are voluntary** and there is no requirement to undergo them, HIV testing even less so, without individual consent.
- D.** The results **of compulsory or voluntary medical examinations** should not be reported to the employer, but rather **processed with due confidentiality** by the health professional providing the healthcare or by the occupational hazard prevention service.
- E.** **Any indication, suspicion, or manifest act of discriminatory treatment in the workplace arising from HIV status must be reported** to the Labour Inspectorate.

gt grupo de trabajo sobre tratamientos del VIH
ENTIDAD DECLARADA DE UTILIDAD PÚBLICA
ONG DE DESARROLLO



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SOBRE EL TEMA?
PREGÚNTANOS
Tel. 93 458 26 41

Descargo de responsabilidad

La información contenida en esta ficha no pretende sustituir la recibida por el médico. Las decisiones referentes a la salud siempre deberían tomarse tras consultar con los profesionales sanitarios. La información médica puede quedar desactualizada con rapidez.

Si te surge alguna pregunta tras leer esta ficha, te aconsejamos hablar con tu médico o enfermera o llamar a gTt-VIH, al 93 458 26 41, para comprobar si existe alguna novedad relevante al respecto.

SUBVENCIONA



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