



# Samarth In Participatory Action (SIPA)

## HIV / AIDS & Sexual Harassment Policy

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## 1. HIV/AIDS and Sexual Harassment Policy

### 1.1 Introduction

1.1.1 Samarth In Participatory Action (SIPA) is a non-profit organization registered under the Madhya Pradesh Trust Act 1951. The organization has been active in Madhya Pradesh state in India since 2008. SIPA promotes participatory development and participatory governance through direct field action, action and training building, evidence-based research and advocacy.

1.1.2 The SIPA HIV Workplace Policy intends to address the following issues:

- a. Confidentiality
- b. Non-discrimination and reasonable accommodation
- c. Education and information
- d. Prevention
- e. Treatment, care and support
- f. Monitoring and evaluation

### 1.2 Objectives of the SIPA HIV/AIDS workplace policy

The SIPA HIV/AIDS workplace policy is intended:

- a. To ensure a supportive work environment for employee / staff / consultant infected and affected by HIV and AIDS
- b. To minimise the possibility of HIV infection for SIPA employee/staff / consultant and their partners and dependents.
- c. To manage and mitigate the impact of HIV and AIDS on the work of the SIPA.
- d. To eliminate stigma and discrimination in the workplace on the basis of real or perceived HIV status, or vulnerability to HIV infection.

### 1.3 Definitions relevant to the context of SIPA HIV/AIDS workplace policy

#### 1.3.1 *HIV-related information*

‘HIV-related information’ includes information that someone:

- May have HIV
- Has been asked to have an HIV test or has been counselled about having a test for HIV
- Is receiving or has received treatment or counselling which suggests he or she may have HIV
- May have had experiences which put him or her at risk of contracting HIV
- Has a close association or relationship with someone with HIV.

#### 1.3.2 *HIV screening*

‘HIV screening’ means any measurement of potential or actual HIV infection, whether direct (HIV testing), indirect (assessment of risk-taking behaviour) or asking questions about tests already taken or about medication.

### 1.3.3 *Reasonable accommodation*

‘Reasonable accommodation’ means any modification or adjustment to a job or to the workplace which is reasonably practicable and which will enable a person living with HIV to have access to, or participate or advance in, employment.

## 1.4 Responsibility for implementation

1.4.1 The Chief Operating Officer has responsibility for the implementation of this policy through the SIPA’s Project Management Unit.

1.4.2 In SIPA Regional Offices, overall responsibility for implementation of this policy rests with the Regional Coordinators.

## 1.5 HIV screening, Recruitment and Employment

1.5.1 The only medical criterion for recruitment is fitness to work. HIV infection does not, in itself, constitute a lack of fitness to work.

1.5.2 There is no obligation on applicants or staff to inform the SIPA of their HIV status.

1.5.3 HIV screening will not be required either as a condition of recruitment or for continuation of employment, unless required by law (e.g. for duty travel).

## 1.6 Confidentiality

1.6.1 SIPA encourages a supportive work environment in which staff can discuss HIV and AIDS openly, including their own experience living with HIV.

1.6.2 Where employees/consultants disclose that they, or their dependents, are living with HIV, confidentiality will be respected with regard to the circumstances in which the information was shared. If there is any doubt, the person living with HIV should be consulted before further disclosure takes place.

1.6.3 HIV related information relating to applicants for employment, employee/consultant or dependents will be kept strictly confidential, and be kept only on medical files.

1.6.4 Employee/consultants/interns/volunteers working for the SIPA shall sign a confidentiality agreement, and shall be informed that the unauthorised disclosure of HIV-related information is a disciplinary offence. It may also lead to legal proceedings against the person who disclosed the information, and the SIPA.

1.6.5 With the voluntary and informed consent of the person concerned, HIV-related information may be disclosed strictly as necessary for the purposes of recruitment or assignment of staff living with HIV where the job description or task identifies this qualification.

## 1.7 Travel, Assignment and Vaccination

1.7.1 When arranging short-term travel for SIPA employee/consultant, the SIPA administration team will notify the relevant individual of any legal restrictions on entry for people with HIV, and any recommended or required vaccines.

1.7.2 Individuals living with HIV must make personal choices as to whether or not they wish to attempt to travel with legal restrictions.

1.7.3 Individuals living with HIV should seek medical advice on the advisability of vaccination according to their particular health status.

- 1.7.4 If a staff member cannot undertake short-term travel for these reasons, reasonable accommodation will be made to identify other ways of accomplishing necessary tasks.
- 1.7.5 When arranging long-term travel or reassignment for existing staff, or recruitment of new staff to positions outside India, the SIPA administration team will notify applicants of any legal requirements for HIV screening, as well as recommended or required health precautions and vaccinations in the country in question.
- 1.7.6 When HIV screening is required, SIPA will ensure referral to pre- and post-test counselling to relevant employee / consultant or short-listed applicants, and will reimburse the cost for such counselling if it is not otherwise available free of charge.
- 1.7.7 If an existing employee / consultant is unable to take an assignment in a particular country because of that country's HIV-related requirements, SIPA will take reasonable steps to find an alternative post.

## 1.8 Information and Training

- 1.8.1 SIPA will provide information and training on the workplace issues raised by the epidemic, on appropriate responses, and on the general needs of people living with HIV and their careers.
- 1.8.2 Such information and training will be gender sensitive, as well as sensitive to race, disability, and sexual orientation.
- 1.8.3 Information will include the availability of local support organisations for people living with HIV, and other affected communities.
- 1.8.4 As far as practicable, such information and training will be integrated into existing education and human resources policies and programmes as well as occupational safety and anti-discrimination strategies.
- 1.8.5 Employee/consultant training on HIV/AIDS will take place during paid working hours and attendance by all employee / consultant including senior staff shall be considered as part of work obligations.
- 1.8.6 Managers and supervisors will be trained on the implementation of this policy.

## 1.9 Stigma and Discrimination

- 1.9.1 SIPA will not discriminate on the basis of actual or perceived HIV status, or membership of a group at increased risk of HIV infection, in the conditions of work, including opportunities for transfer and advancement.
- 1.9.2 Employee/consultant living with HIV will be treated no less favourably than staff with other serious illnesses.
- 1.9.3 SIPA will undertake activities to address HIV and related stigma in the workplace, including through employee / consultant training and the promotion of an open, accepting and supportive work environment for staff who chose to disclose their HIV status.

## 1.10 Reasonable accommodation

- 1.10.1 SIPA may reasonably accommodate the special needs of employee/consultant living with, or directly affected by HIV on a case-by-case basis, subject to the overall requirements of the organisation.

- 1.10.2 Reasonable accommodation may include flexible working hours and time off for counselling and medical appointments, extended sick leave, transfer to lighter duties, part-time work, and return-to-work arrangements.

## 1.11 Termination of employment

- 1.11.1 HIV infection is not a cause for termination of employment. Employee/consultant with HIV-related illness will continue in employment as long as they are medically fit for available, appropriate work.
- 1.11.2 In the case of termination of employment due to extended illness, employee / consultant living with HIV will be accorded the same benefits and conditions as apply to termination due to other serious illnesses.

## 1.12 Gender dimension

- 1.12.1 SIPA acknowledges that HIV and AIDS impacts on male and female staff differently. This includes the recognition that women normally undertake the major part of caring for those with AIDS-related illnesses, and that pregnant women with HIV have additional special needs.
- 1.12.2 Any employee/consultant and family assistance programmes will be designed to accommodate these differing impacts, and as appropriate to redress gender inequalities, for example by encouraging and supporting men as carers.

## 1.13 Counselling, Grievance and Disciplinary procedures

- 1.13.1 SIPA will provide information to all employees/consultant where HIV-related advice, counselling and referral can be found outside the work environment. SAMARTHAN will also identify a staff member in its Regional Office from whom staff can seek confidential advice, counselling and referral on HIV-related matters.
- 1.13.2 SIPA will provide procedures that can be used by employees / consultants for work-related grievances, including failure by the SAMARTHAN to implement any aspect of this policy.
- 1.13.3 Disciplinary proceedings may be commenced against any employee /consultant who violate this policy.

## 1.14 Monitoring & Evaluation

- 1.14.1 The implementation and management of this policy will be monitored on a regular base by the Chief Operating Officer responsible for the specific office, and evaluation procedures will be conducted by the Program Manager.
- 1.14.2 Annual meetings will be held with staff to review this policy based on the monitoring and evaluation reports.

## 1.15 Revision

- 1.15.1 Senior management, including the Chief Operating Officer, along with the SAMARTHAN shall review this policy as per need of amendment made.

## **Sexual Harassment Policy**

- 1.16 All employees/consultants of SIPA, irrespective of sexual orientation and gender identity (SOGI), would equally be allowed to work in an environment free from stigma, discrimination and sexual harassment.
- 1.17 SIPA imposes a responsibility on all its employees/consultants and associates to respect the SOGI and treat other employees/consultants and associates in an appropriate manner in consonance with this.

- 1.18 SIPA wants to make it clear that it regards stigma, discrimination and sexual harassment in the workplace as a serious issue, and commits itself to dealing with any violation of this policy by any employees/consultants or associate, which vitiates the work environment and enforces stigma, discrimination, or harassment based on SOGI, as a disciplinary offence.
- 1.19 SIPA reiterates that stigma, discrimination and sexual harassment will not be tolerated in the workplace, and SIPA is committed to ensure that these offences do not occur. It understands that such offences are a violence, which can severely affect physical and mental health as well as morale and work performance.
- 1.20 SIPA understands and applies the concept of sexual harassment in a broader ambit than the traditional understanding where it is generally perceived as that of as male - female phenomena, and acknowledges that it also occurs between people of the same gender, or with those of differing sexual orientations and gender identities.
- 1.21 Sexual harassment is regarded as a disciplinary matter to be dealt with in accordance with terms and conditions of employment.
- 1.22 SIPA considers that it is each individual's responsibility to challenge any form of stigma, discrimination and sexual harassment, and imposes this responsibility on all its staff and associates, with the risk of punitive consequences in case of failure to do so. Sexual harassment in this regard shall be any overt or covert action, either one-off or sustained, that vitiates the work environment and makes it difficult for a staff member to continue to work effectively and efficiently without degrading his/her self-respect, dignity, or bodily integrity, certain details of which are explained herein below.
- 1.23 Acts which are not deliberately or intentionally offensive but which nevertheless cause offence may constitute sexual harassment. Although this is not an exhaustive list, sexual harassment can be defined as:
- Unnecessary touching or unwanted physical contact
  - Suggestive remarks or other verbal insults or abuse of a sexual nature.
  - Suggestions that sexual favours may further someone's career (or that refusal may damage it).
  - Compromising invitations
  - Displays of offensive pornographic materials that is not relevant to the work of SIPA.
  - Physical or sexual assault.
  - Unnecessary or irrelevant gossip and scandal mongering that may incite other employee /consultant to treat a staff badly, or may injure the reputation of that staff member generally.
- 1.24 Nobody should have to tolerate sexual harassment in their workplace. It is essential that all employees/consultants feel able to raise their concerns about sexual harassment and that these concerns are taken seriously.
- 1.25 The disciplinary procedures of SIPA shall deal with complaints proceedings in case of sexual harassment in the workplace,
- 1.26 SIPA shall follow laid down guidelines to investigate any complaints, and shall implement the punitive consequences that follow from an established and proven instance of sexual harassment.
- 1.27 If any employee/consultant is experiencing any form of sexual harassment (no matter how minor it may seem), it is requested and required that this be immediately brought to the attention of the immediate supervisor who is requested to bring it to the attention of the Sexual Harassment Committee of SIPA, which shall comprise of the Chief Operating Officer, Programme Manager, Manager- Administration and HR.
- 1.28 All reports dealing with sexual harassment will be considered confidential by SIPA and all parties concerned.

## **Consequences**

- 1.29 Anybody found violating the SIPA's policy on sexual harassment would face disciplinary action.
- 1.30 Such disciplinary action shall follow the procedures laid down below.
- 1.31 SIPA recognizes that issues in relation to sexualities, sexual orientation and gender variance are not ordinarily discussed within our society. This results in denial, ignorance, oppression and harassment of people with alternate sexualities. The effect of this in the workplace is that people are not encouraged to be open about their sexuality and therefore this actively contributes to the heterosexism (the oppression of people who have the same gender relationships) within our society.
- 1.32 SIPA therefore also undertakes to pro-actively create a work environment that supports individuals to work in it irrespective of their SOGI.
- 1.33 Although this is not an exhaustive list, Sexual harassment can be defined as –
- a. Jokes stigmatising different, marginalised sexual orientations and gender identities
  - b. Suggestive remarks or other verbal insults or abuse of the nature
  - c. Unnecessary touching or unwanted physical contact
  - d. Displays of sexual material
  - e. Expressing opinions or views that same-sex relationships are less worthy than sexual relationships
  - f. Non-verbal behaviour which is gender phobic.
- 1.34 **Disciplinary and Complaints handling procedure**
- 1.35 **Complaints procedure**
- a. Any employees/consultants facing sexual harassment shall lodge a formal written complaint to the Sexual Harassment Committee (SHC) of SIPA.
  - b. On receiving the complaint, the SHC of SIPA shall acknowledge the receipt of the same.
- 1.36 **Investigation procedure**
- a. SHC of SIPA shall then constitute an investigation team to inquire into the merits and demerits of the complaint.
  - b. During the investigation process, the investigation team shall maintain complete confidentiality of all respondents, handle the investigation and cross examination with sensitivity with the objective of gathering impartial credible evidence to substantiate the contents of the complaint.
  - c. The investigation team shall within a period of not more than one calendar month submit a detail investigation report.
- 1.37 **Review of investigation report**
- a. The SHC of SIPA shall impartially analyse and review the investigation report and discuss with the investigation team if required for a comprehensive understanding of the investigation report.
  - b. Based on its review, the SHC shall either acquit the accused or frame charges against the accused if adequate and credible evidence to substantiate the same has been put together.
- 1.38 **Acquittal**
- a. In case the investigation report reveals that there is no merit in the complaint, the SHC shall recommend to the Chief Operating Officer of SIPA that the accused be acquitted and damages, if any, that may have been caused to the falsely accused because of the complaint, be considered as per the SIPA policies.

- b. All actions thereafter shall be undertaken by the Chief Operating Officer of SIPA to conclude the case.

### 1.39 Framing of charges

- a. If the investigation report reveals that there is substantial evidence to support the complaints made the complainant, the SHC shall frame appropriate charges and submit the same to the Chief Operating Officer.
- b. The Chief Operating Officer shall at that time determine appropriate disciplinary and punitive action against the guilty.

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