

PLWHA can seek relief at EOC

PERSONS living with HIV and Aids (PLWHA) who face discrimination in certain settings because they are infected with HIV or Aids can lodge a complaint and get relief at the Equal Opportunity Commission (EOC).

The commission's mandate is to enforce the Equal Opportunity Act. That act prohibits discrimination in four broad categories – in employment, in the provision of goods and services, in education, and in the provision of accommodation – where someone is treated adversely because of a personal and inherent characteristic that they have, known as a status ground. Currently, the act protects seven status grounds – race, ethnicity, religion, disability, sex, marital status and origin.

PLWHA can lodge a complaint under the header of disability. There has been much discussion in the past on whether HIV/Aids fell within the provisions of the act, and concerns as to why it should be seen as a disability given that, if detected early and properly treated, people can live healthy lives. Disability is defined at section 2, the interpretation section, as follows: "Disability" means –

(a) total or partial loss of a bodily function;
(b) total or partial loss of a part of the body;

(c) malfunction of a part of the body including a mental or psychological disease or disorder; or

(d) malformation or disfigurement of part of the body.

HIV attacks the CD4 helper cell which is a cell within the immune system. Apart from attacking the cell, it uses that cell to replicate. The person's immune system becomes compromised and they have difficulty fighting off even minor infections such as a cold. When a person's CD4 count drops



below 200, they would have progressed to Aids. As such, HIV comes within (c) above, as if untreated it causes a malfunction of the immune system which is a part of the body. If it progresses to Aids, then it can also fall under (a) as it is loss of the functions of the immune system.

PLWHA have complained of discrimination arising from stigma more than they have complained of discrimination because of their medical condition.

Inequality and discrimination are closely related but not identical. Inequality refers to a state of existence; we can all be differentiated along lines such as culture, language, social connections, economic status, educational background, etc.

Discrimination is where a person or group is treated less favourably because of one or more of these differences, rather than because of their merit and ability.

Stigma is where a person or group is viewed in a negative way because of a characteristic or attribute. While not itself discriminatory, it can lead to discrimination where that person is treated unfavourably because of this negative perception.

There is a shame, fear and guilt associated with HIV and Aids that is not associated with diabetes or heart disease. For example, it is assumed that PLWHA did something that society disapproves which led to their infection, like sexual promiscuity, drug use,

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and sex work. This public stigma can lead to self-stigma; that is where affected people develop internal guilt and shame about their own condition, believing that they are being punished and see themselves as lesser people.

It has been reported that because of this some PLWHA would try to avoid attending clinics or pharmacies to get the medications they need or would choose to not take their medications in social or work-related settings for fear of being discovered, which would make their health condition more severe.

The commission is empowered to receive complaints, investigate them and, where possible, bring the parties to the table to try to settle the dispute via conciliation. If the matter cannot be resolved, the matter can be sent to the Equal Opportunity Tribunal.

This tribunal is the second entity created by the act and is an independent and separate body from the commission. It is a superior court of record chaired by a judge; its mandate is to hear matters that the commission could not resolve and give a judgment.

For more information people can visit the commission's website [www.equalopportunity.gov.tt].