



FSC Guidance Note No. 32

HIV/AIDS Underwriting Guidelines

19 June 2013

FSC Membership this Guidance Note is most relevant to:	This Guidance Note is primarily relevant to Life Insurance FSC Members, but may be relevant to other FSC Members.
Date of Guidance Note:	19 June 2013
History:	No prior versions of this Guidance Note
Main Purpose of Guidance Note:	The main purpose of this Guidance Note is to provide background and guidance for FSC Members relating to underwriting in respect of insurance applicants with HIV/AIDS or insurance applicants who engage in activities which can represent a significantly above-average risk of leading to a subsequent infection.

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These Underwriting Guidelines have been prepared by senior members of the Australian Life Underwriters and Claims Association (ALUCA) for use by its members and the life insurance industry in Australia.

The Financial Services Council (FSC) is the industry association that represents Australian life insurers. As the FSC promotes best practice for the financial services industry by setting mandatory Standards for its members and providing Guidance Notes to assist in operational efficiency, ALUCA has referred these Guidelines to the FSC for adoption as a Guidance Note of the FSC.

Compliance with the FSC's Guidance Notes is voluntary but strongly encouraged. FSC Guidance Notes provide a guide to what is considered to be industry best practice in certain areas of the financial services industry.

There is no intention to suggest or promote rating bases or a particular underwriting approach. Decisions in these respects are the prerogative of individual insurers. These Guidelines simply provide guidance and background for those members who are required to implement certain underwriting approaches.

Readers of this document should note the disclaimer at the foot of the page.

The FSC and industry participants are bound to comply with all applicable law. These guidelines are not intended to contravene any such law or to create any obligation that they be followed.

This Guidance Note provides background and guidance for insurers, relating to underwriting in respect of HIV/AIDs insureds or proposed insureds. Insurers should of course consider all relevant binding requirements, including any legal (including statutory) requirements or requirements of any regulator. This Guidance Note does not constitute legal, actuarial or any other professional advice and must not be relied upon as such. This Guidance Note does not override any binding requirements applicable to an insurer. Nor is this Guidance Note a substitute for insurers obtaining appropriate legal, actuarial or other professional advice as appropriate.

1. UNDERWRITING FOR HIV/AIDS

1.1 Introduction

- 1.1.1 Life insurers in Australia aim to provide insurance at standard rate premiums to as large a section of the Australian population as possible. To be able to do so, each insurer seeks information about an applicant's present state of health, health history, family medical history, risk profile, habits, travel, residence, occupation and pastime activities. From this information, the insurer assesses the risk and decides the terms of acceptance it will offer the applicant. The vast majority of applicants will be offered standard rate premiums, whilst a small minority will be accepted at rates above standard, or with an exclusion to the policy. On very few occasions cover may have to be declined outright or for a period of time after which a further application may be considered.

Disclaimer: *The information contained within this document is a guide only. An insurer still needs to ensure its underwriting processes and decisions are consistent with and supported by its internal guidelines and current data, including actuarial and statistical data, as well as any applicable legal requirements.*

- 1.1.2 Individual life and disability insurance in Australia is voluntary and is risk-rated through the insurance underwriting process. Importantly, the majority of policies issued are guaranteed renewable. Evidence-based underwriting that takes into account an individual's risk profile ensures that the premiums paid by each policyholder reflect their risk relative to the whole pool. This is a fundamental principle of voluntary insurance and means that insurers necessarily assess an individual's application for life insurance on the basis of a range of criteria including their current state of health, health history, family medical history, habits, travel, residence, occupation and pastime activities etc.
- 1.1.3 The basis for the underwriting of life and disability insurance is the gathering of evidence based on statistical information relating to death and disability rates experienced by different categories of risk. Companies aim to make the standard rates risks as wide as possible. Sub-standard risks constitute only a small percentage of all applications. In such cases, skilled technical underwriters make judgments, based on statistical data, necessary to place risks in appropriate categories and determine appropriate terms of acceptance for them.
- 1.1.4 The underwriting assessment should be fair and only take into account considerations necessary to determine the risk and pricing. Underwriting should also be objective, without making value judgments about the applicant's risk profile.
- 1.1.5 The life insurance industry in Australia is extremely competitive. Insurers compete across the field of assessment procedures, categorisation of life to be insured and the premium rates offered. It would be rare to find two companies asking precisely the same questions and offering the same terms.
- 1.1.6 An individual's life and health can be impacted, not only by medical conditions, but also by the daily activities of a person in connection with occupation, hobbies, risk profile, habits or pastimes. Some activities represent higher-than-average risk taking by a person. Examples are motor racing, hang-gliding and tobacco smoking. An insurance company, typically, may not offer cover at standard premium rates to people who engage in activities it considers as 'higher/increased risk'.
- 1.1.7 Typically, an insurance company will set out questions about the applicant's present and past health, occupation, family history, risk profile, habits, travel, residence and pastime activities to be answered in a 'personal statement'. It seeks authority to obtain medical information from present and past medical attendants of the applicant and it may require a medical examination or specific medical tests to enable it to assess the applicant's risk with reasonable accuracy. Only when the required information has been provided, can it consider terms for the applicant.
- 1.1.8 An insurer is concerned to establish whether an applicant is infected with HIV at the time of proposal, or engages in activities which can represent a significantly above-average risk of leading to a subsequent infection.

1.2. The Application Form

- 1.2.1 Statements and questions should contain wording which is clear so that the applicant can confidently and precisely respond. They should relate to fact, rather than opinion. Disclosure from the applicant should be able to be given without the need for any judgment.

- 1.2.2 Questions which may be misinterpreted or require the applicant to second guess what information the insurer requires should be avoided.
- 1.2.3 The relevant areas of risk classification in relation to HIV or potential exposure to HIV are listed below along with suggested lines of questions.

MEDICAL

An insurer can determine whether or not the applicant has been tested or is aware of being infected with HIV. There can be a question asked of the applicant that takes the following into consideration:

- (i) Medical consultation, investigation for or treatment of HIV or HIV-related conditions; and/or
- (ii) Reactive tests for HIV antibodies.

RISK PROFILE

Insurers may decide to ask questions in respect of risks that an applicant's risk profile may present.

Some of these risks are identified in the Surveillance Report, "*HIV/AIDS, viral hepatitis and sexually transmissible infections in Australia*", published annually by the Kirby Institute for infection and immunity in society and include:

- (i) Anal sexual activity without a condom;

An insurer may determine that if the proposed insured is in a monogamous relationship and has been for a *period of time*¹ the risk of contracting the virus is reduced;

- (ii) Sex with, or as, a sex worker; and
- (iii) Sex (without a condom) with a person who uses injected drugs not prescribed by a registered medical practitioner.²

Insurers may also consider it appropriate to ask questions regarding the applicant's travel to high-risk areas or sexual relations with persons who have recently come from such high-risk areas³.

¹ Period of time is stated as such because symptoms of contracting the HIV virus may or may not be apparent immediately and will be determined by individual insurers.

² It is expected that insurers ask about personal drug use elsewhere within their personal statements and therefore this risk factor has not been included here.

³ Reliance upon this information in an underwriting decision must be supported by regularly updated data concerning countries or areas within countries where there is currently a significantly higher risk of HIV infection.

Under anti-discrimination legislation insurers can only make a distinction about an applicant's risk profile where the decision is supported by reasonable actuarial or statistical data or other relevant factors.

EXPOSURE VIA PARTNER

A belief that, to the best of the applicant's knowledge, any sexual partners would not be at risk of having the HIV virus or participate in the risk factor activities noted above.

- 1.2.4 It is the responsibility of each insurer to determine whether or not additional information is required depending on the responses to the appropriate matters noted above. Any additional line of questioning should be designed to give the applicant an opportunity to show, if appropriate, that the application should be accepted. Questions should be framed to enable the answers to show, if that is the case, that infection is not present and that the person does not engage in activities which represent a significantly above-average risk of infection.

1.3 Criteria for requesting an HIV screening test

1.3.1 Companies may require applicants to undergo HIV testing under the following situations:

- (a) Any proposal for total cover, which exceeds a 'mandatory testing sum insured level' determined by each company. In this context, the cover currently in force in existing policies may be taken into account in determining the total cover being proposed. However, the existing cover provided by those existing policies is not affected by the assessment of the new proposal.
- (b) Where the block declaration referred to in the health section of the standard application is not made, or the answer to any specific 'HIV or AIDS-related' question is unfavourable.
- (c) Where, on the basis of what is stated in the personal statement section of the proposal form, or stated in medical reports, there are reasonable grounds for concluding that the proposed insured may be engaging in or has engaged in activities which involve an increased risk of acquiring HIV infection.

1.4 Choice of Test Arrangements

1.4.1 When a company requires the applicant to undergo HIV testing, it may adopt one of the following approaches. The applicant may:

- (a) allow the requesting insurer to arrange the test at its expense, in which case the insurer will obtain the test result; or
- (b) be requested to make personal arrangements to undergo HIV testing and have the test provided to the insurer by the doctor.

1.5 Procedures for tests arranged by insurer

- 1.5.1 No HIV-related test that is arranged by the insurer shall be performed without the informed consent of the person who is to be insured. The basis for such informed consent will be the material described below. A recommended example is contained in **Attachment A(2)**.
- 1.5.2 Material should be provided to the applicant setting out:
- (a) the applicant's rights with respect to testing;
 - (b) the reasons why insurers request HIV testing;
 - (c) the medical, legal and social consequences of having a test;
 - (d) the consequences for the current application, if the result of the test is reactive/positive,
 - (e) the accuracy of the test and the fact that this is a screening test and should be repeated with the client's attending Doctor;
 - (f) the fact that the applicant should have counselling from his or her own doctor or an AIDS/Sexually Transmitted Diseases clinic if there are other questions to which answers are desired; and
 - (g) how the test results will be notified.
- 1.5.3 The applicant's written confirmation of understanding the implications of, and consent to HIV testing must then be obtained.
- 1.5.4 The drawing of blood would be performed by a doctor or other suitably qualified person. The blood would then be sent to a NATA (National Association of Testing Authorities) accredited laboratory.
- 1.5.5 The test must be carried out by a NATA accredited laboratory and the procedure approved by the Commonwealth Department of Community Services and Health.
- 1.5.6 The company should arrange for the initial communication of the result of a positive/reactive HIV test to be addressed to either its Chief Medical Officer or its Chief Underwriter in each State or Territory.
- 1.5.7 Third party medical providers should only provide positive/reactive results to the insurer's Chief Medical Officer or Chief Underwriter in each State or Territory.
- 1.5.8 Any reactive/positive test result obtained by the company must be communicated to the doctor who has been nominated by the proposed insured for onward transmission to the applicant and to no-one else. In the case of a reactive/positive test result, the underwriting decision must not be communicated to the applicant until after the nominated doctor has informed the applicant of the test result.

1.6 Confidentiality

- 1.6.1 Access to health information concerning the HIV status of an applicant should be restricted to insurance company employees who are required to see the information to assess whether

cover is to be provided and on what terms. This approach is consistent with the National Privacy Principles, which requires the use and disclosure of personal information to be restricted to the primary purpose of collection.

1.6.2 **Attachment A(1)** sets out information for an applicant considering undergoing a blood test for HIV. **Attachment A(2)** is a template for informed consent for undergoing an HIV blood test.

1.6.3 It is recommended that the company direct all reactive/positive HIV related test results to their Chief Medical Officer or Chief Underwriter in each State or Territory. If the company is using **Attachment A(1)** "Implications of an HIV Test", please note that the information states that the results "will be sent under confidential cover to our Chief Medical Officer or Chief Underwriter".

Negative results are to be communicated to the underwriting staff processing the proposal and to the relevant reinsurer.

1.6.4 Reasonable steps should be taken to keep applications, documents and medical information relating to HIV history secure and access limited to those key persons required to conduct the business. Ultimate responsibility of these documents should reside with the Chief Medical Officer and/or Chief Underwriter in each State or Territory. **Attachment B** contains a form of confidentiality undertaking which insurers may consider using as a base document to ensure the insured's employees keep such information confidential. Insurers should consider their own procedures and policies in relation to employee confidentiality. Attachment B is not intended to substitute the range of policies insurers may have in place to ensure confidentiality is maintained.

1.7 Authorities

1.7.1 Insurers wishing to obtain details of the past medical history must only do so with the written consent of the applicant. No information should be sought that is not specifically covered by the consent, for example - no information about sexual activity should be requested, unless specifically authorised. In addition, no requests should be made which seek broad opinions on non-medical matters.

1.8 Group Schemes

1.8.1 Some group schemes provide for semi-automatic acceptance on standard terms of new members or increases, subject to criteria such as eligibility, size of cover, age and being actively at work. Any cover which is not granted on semi-automatic acceptance terms, should be subject to application and assessment procedures which adhere to this best practice.

1.9 Communication of Results for tests arranged by insurer

1.9.1 The insurer should arrange for the initial communication of the result of an HIV test to be addressed to either its Chief Medical Officer or its Chief Underwriter in each State / Territory.

1.9.2 Negative results – Any negative test result obtained by the insurer may be released to the applicant's usual doctor upon request by the applicant.

- 1.9.3 Positive/reactive results – Any positive/reactive test result obtained must be communicated to the doctor nominated by the applicant and to no-one else. In the case of a positive/reactive test result, the insurer must not communicate the underwriting decision to the applicant until after the nominated doctor has informed the applicant of his or her test results.
- 1.9.4 Multiple lives – In the event of a positive/reactive test result where the insurer has an application for the spouse of the applicant, the insurer must not communicate the underwriting decision to either applicant until after the nominated doctor has informed both applicants of the test result.

1.10 Example exclusion wording

- 1.10.1** Where an insurer determines to apply an HIV/AIDS exclusion, insurers may consider using the following exclusion wording:

“We will not pay a claim if it is caused directly or indirectly by infection with Human Immunodeficiency Virus (HIV) or by conditions due, or in the presence of, any Acquired Immune Deficiency Syndrome (AIDS).”

1.11 Glossary of Terms relating to underwriting for HIV/AIDS

Attachment C sets out a Glossary of terms that underwriters might encounter when underwriting for HIV/AIDS.

Attachment A (1) - Implications of an HIV Test

IMPLICATIONS OF AN HIV TEST

As with testing for any other medical condition, there are several important matters for the applicant to consider before proceeding with an HIV test, including the potential healthcare, psychological, social and economic implications of a positive/reactive test result.

Pre-test counselling remains an integral clinical practice guideline in HIV testing. Insurance applicants should refer to a nominated medical service provider (who will be arranging testing and follow-up) for further advice and pre-test counselling regarding all the potential implications of an HIV test.

Federal and State health authorities in Australia provide updated reference materials on their respective websites, regarding the HIV testing process and its relevant implications. Accordingly, persons with general queries regarding HIV testing (and who are not to be tested themselves) may be referred to the relevant authorities to obtain further information directly, including the following websites (available as at October 2011):

Australian Government, Department of Health and Ageing: <http://www.health.gov.au/>

State based reference sheets are shown below. They include information and links to telephone numbers.

New South Wales

<http://www.health.nsw.gov.au/factsheets/infectious>

Victoria

http://www.ashm.org.au/images/publications/patient%20fact%20sheets/hiv/hiv_fact_sheet_en_vic.pdf

Queensland

http://www.ashm.org.au/images/publications/patient%20fact%20sheets/hiv/hiv_fact_sheet_en_qld.pdf

South Australia

http://www.ashm.org.au/images/publications/patient%20fact%20sheets/hiv/hiv_fact_sheet_en_sa.pdf

Western Australia

http://www.ashm.org.au/images/publications/patient%20fact%20sheets/hiv/2008_hiv_fact_sheet_en_wa.pdf

Tasmania

http://www.ashm.org.au/images/publications/patient%20fact%20sheets/hiv/hiv_fact_sheet_en_tas.pdf

Northern Territory

http://www.health.nt.gov.au/Centre_for_Disease_Control/Publications/CDC_Factsheets/index.aspx

Australian Capital Territory (with reference to New South Wales)

http://www.ashm.org.au/images/publications/patient%20fact%20sheets/hiv/hiv_fact_sheet_en_nsw.pdf

Acquired Immune Deficiency Syndrome (AIDS) is a disease caused by the Human Immunodeficiency Virus (HIV) which destroys white blood cells that help protect our bodies against disease, including infections and

cancer. Individuals infected with HIV are more prone to infection and the development of cancer and the HIV virus may cause damage to any or all of the major organs of the body. The most recent evidence suggests that the virus will persist in the body indefinitely. As yet, there is no cure for HIV.

Following infection, an individual might experience mild flu-like symptoms, or no symptoms at all. The body subsequently manufactures antibodies specific to the virus, typically within 8 to 12 weeks, or longer in certain cases. Such antibodies might be detected by a specific blood test, which is the test proposed in this instance. An infected individual could remain free of symptoms for many years, but might also pass the infection to others during this time.

Typical symptoms of AIDS include weight loss, swollen lymphatic glands, fever, diarrhoea, cough, neurological conditions and/or cancer.

If the result of your HIV test is REACTIVE, this means that:

1. You are infected with HIV.
2. You could pass this infection:
 - (a) To any unprotected sexual partner;
 - (b) To anyone receiving your blood, donated organs or semen;
 - (c) To anyone sharing needles or syringes with you, specifically through the use of intravenous drugs;
 - (d) For females, to your baby during pregnancy, childbirth and/or through breast feeding;
 - (e) To a healthcare worker through accidental exposure.

THERE IS NO EVIDENCE THAT THE VIRUS MAY BE SPREAD BY CONTACT SUCH AS TOUCHING, KISSING, SHARING EATING UTENSILS, COUGHING, SNEEZING OR FROM MOSQUITO BITES, except in instances where such contact includes exposure of broken skin and/or mucosal surfaces, to infected blood.

3. AIDS is notifiable to public health authorities throughout Australia and HIV infection is also notifiable to a national authority. In most cases, notification is by name and address, but in some States, individual cases are notified through a specifically-generated code, typically the first two letters of each of an individual's given and family names.
4. Knowing that you are HIV-antibody-reactive has legal implications in all Australian States and Territories, although such implications could vary per region.

If the result of the HIV antibody test is NEGATIVE, this means that an individual was either not exposed to and/or infected with HIV, or otherwise that the individual may have been infected recently and their body has not yet had time to manufacture antibodies to HIV, through a process named 'seroconversion'. An individual should remain alert to the risk of becoming infected with HIV and refrain from activities which could cause infection, specifically, unsafe sexual activities and/or the sharing of syringes or needles.

You may choose not to have the test done for a variety of reasons, for example, you might feel that you would not be able to cope with the knowledge of a positive/reactive test result and the medical implications which follow, or you may be concerned about the social implications of a positive/reactive result, including discrimination, negative stigma, and so forth. You may feel that you would like more information first, in which case you are advised to seek advice from your usual doctor. If you do not have one, or would prefer advice from another source, you are advised to see a specialist counsellor on the subject.

If you choose to have the test arranged by us, we are dedicated to protecting your privacy. As such, the sealed test result will be sent under confidential cover to our Chief Medical Officer or Chief Underwriter. This process could take up to several weeks during busy work periods. A positive/reactive test result will not be recorded on our general records of your proposal for insurance.

If the test result is positive/reactive, it is essential that you receive appropriate counselling from a medical doctor. Accordingly, we have asked you on the consent declaration form to nominate the doctor who you wish to provide you with this counselling. We will forward a positive/reactive test result directly to your nominated doctor, who would then arrange onward communication to yourself.

Attachment B – A form of Confidentiality Undertaking

PERSONAL / MEDICAL INFORMATION ABOUT APPLICATIONS / INSUREDS

In my working capacity with XYZ Company, I may learn information that is of a personal and confidential nature, about an individual or individuals proposing for insurance, or already insured by the Company.

Examples of such information, which might be past or current, include:

- (a) Details of an individual's state of health and/or medical symptoms and conditions, including details of medical consultations, investigations and therapy;
- (b) Details of an individual's living arrangements, sexual activities and behaviours, relationships with family members and other relevant personal details;
- (c) Details of an individual's employment and finances.

I understand that all such information must be treated as completely confidential. I undertake not to disclose any such information to any person, who is not specifically authorised by XYZ Company to have such information, without the specific written consent of the person to whom the information relates.

Furthermore, I understand that HIV-related information is particularly sensitive and that knowledge of HIV-positive test results is restricted to the Chief Medical Officer, the Chief Underwriter and/or a delegated Senior Underwriter in the relevant State or Territory.

Attachment C

There are a number of terms that the underwriter might encounter when underwriting for HIV/AIDS and some of these terms are explained below:

GLOSSARY OF TERMS

AIDS: acronym for Acquired Immunodeficiency Syndrome, a disease caused by infection with the Human Immunodeficiency Virus (HIV). Sometimes also described as “*acquired immunodeficiency disease*”.

Antibody: an antibody or “*immunoglobulin*” is a specialised immune protein produced due to the introduction into the human body of an antigen. An antibody possesses the ability to combine with the very antigen that triggered its production.

Antigen: any substance foreign to the human body, that evokes an immune response either alone or after forming a complex with a larger molecule (such as a protein), which is capable of binding with a product (such as an antibody) of the immune response

Asymptomatic infection: an infection without symptoms. Also known as inapparent or sub-clinical infection.

Condom: although the word *condom* usually refers to the male condom, there is also a female condom. Both male and female condoms are barrier methods of contraception and also used for ‘safe sex’ (also called ‘protected sex’).

ELISA: acronym for Enzyme-Linked Immunosorbent Assay, a rapid immunochemical test involving an enzyme that is a protein, which catalyses a biochemical reaction. It also involves an antibody or antigen, which are immunologic molecules.

Enzyme: a protein (or protein-based molecule) that speeds-up a chemical reaction in a living organism. An enzyme acts as catalyst in certain chemical reactions, converting a specific set of reactants (called substrates) into specific products.

HIV: acronym for the Human Immunodeficiency Virus, the cause of AIDS (acquired immunodeficiency syndrome). HIV is a retrovirus, which has an RNA genome and a reverse transcriptase enzyme. Through use of the reverse transcriptase, the virus utilises its RNA as a template to make complementary DNA, which then integrates into the DNA of the host organism.

Immune: in medicine, a status of being protected against infection.

Immune response: any reaction by the immune system.

Immunosuppression: suppression of the immune system, which might result from certain diseases such as AIDS or lymphoma, or from drugs such as some of those used to treat cancer. Immunosuppression may also be deliberately induced with drugs to prevent the rejection of a (homologous) transplant, for example, in preparation for bone marrow or other organ transplantation.

NATA: The National Association of Testing Authorities, Australia (NATA) provides a foundation for confidence in Australia’s calibration, testing, and inspection activities. NATA technical auditing (accreditation) also underpins the certification of a range of products and services.

Reactive: HIV virus has been detected using either an ELISA test or Western Blot. Depending on the specificity and sensitivity of the ELISA test used, false positive and false negative results can occur. A reactive Western Blot indicates a high probability of the person being infected with the HIV virus and is routinely performed after a reactive HIV Elisa test to confirm the presence of the HIV virus in the blood specimen.

Retrovirus: an RNA virus, being a virus composed of RNA (and not DNA). Retroviruses have an enzyme called *reverse transcriptase*, which gives them the unique ability to transcribe their own RNA into DNA. This then enables retroviral DNA to integrate into chromosomal DNA of the host cell, where it is “*expressed*”. HIV is a retrovirus.

Reverse transcriptase: the enzyme which enables HIV and other retroviruses to use their own viral RNA, as a template to make DNA.

Risk factor: something that increases a person's chances of developing a disease.

RNA: acronym for *ribonucleic acid*, a nucleic acid molecule similar to DNA but containing *ribose* rather than *deoxyribose*. RNA is formed upon a DNA template.

Safe sex: any sexual activity, especially sexual intercourse, in which various measures are taken (such as the use of latex condoms or the practice of monogamy) to avoid infections (such as HIV/AIDS) transmitted by sexual contact. Also called ‘safer sex’ or ‘protected sex’.

Transfusion: the transfer of blood or blood products from one person (the donor) into another person’s (the recipient) bloodstream. In most situations, this is done as a lifesaving procedure to replace blood cells or blood products lost through severe bleeding.

Unsafe sex: any sexual activity where no measures are taken (such as the use of latex condoms or the practice of monogamy) to avoid infections (such as HIV/AIDS) transmitted by sexual contact. Also called ‘unprotected sex’.

Western Blot: a molecular biology technique used to separate and identify proteins.

REFERENCES

- National Centre in HIV Epidemiology
- NATA (National Association of Testing Authorities) accredited laboratory
- Commonwealth Department of Community Services and Health.
- National Centre in HIV Epidemiology & Clinical Research