

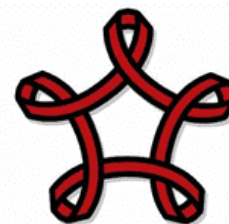


October / November 2005



### From the Editor

The terms 'sustainability' and 'disability grants' may seem somehow at odds with each other but are the buzzwords in the management of HIV & AIDS in the private and public sectors in South Africa. But whilst the former relates to some of the philosophical questions that we need to be asking ourselves as companies and organisations, the latter relates to one of the flesh-and-bones issues facing so many people living with AIDS in South Africa.



Together we can  
beat HIV & AIDS

It is interesting though, that how we deal with and ensure sustainability and some of the key issues like providing incapacitated people with a subsistence grant, will determine how our economy and society move towards reducing grinding poverty, joblessness and so many of the other drivers of the HIV and AIDS epidemics. We are sure that you will find intriguing, this month's articles relating to these hot topics.

Don't forget to visit the **AIDS Analysis Africa Online** website at [www.redribbon.co.za](http://www.redribbon.co.za) for archived articles, statistics and reports on HIV/AIDS in sub-Saharan Africa.

*Gillian*

**Gillian Núr Samuels**

Editor: AIDS Analysis Africa Online

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### What you'll find in this edition...

**[HIV and AIDS - sustainability and corporate governance: how do organisations measure up?](#)**

*By Arlene Georgeson*

**[Disability grant or antiretroviral therapy? A grim choice for people with HIV & AIDS in South Africa\\*](#)**

*by Chloe Hardy and Marlise Richter*

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\* This article is an abbreviated version of an article by the same authors entitled "Disability Grants or Anti-retrovirals? A quandary for people with HIV/AIDS in South Africa". The article was submitted to *the African Journal of AIDS Research*.

## HIV and AIDS - sustainability and corporate governance: how do organisations measure up?

By Arlene Georgeson



If one considers the broader definitions of corporate governance, sustainability and triple bottom line, it is obvious that they are inextricably linked to the same principles:

In the narrowest definition of the concept, "Corporate Governance is the system by which business corporations are directed and controlled". The World Bank's expanded definition however states that "Corporate Governance is concerned with holding the balance between economic and social goals and between individual and communal goals. The corporate governance framework is there to encourage the efficient use of resources and equally to require accountability for the stewardship of those resources. The aim is to align as nearly as possible the interests of individuals, corporations and society" (*Sir Adrian Cadbury in 'Global Corporate Governance Forum', World Bank, 2000*)

The definition of sustainability from the Report of the World Commission on Environment and Development, 1987, (The Brundtland Report), and derived from the term "sustainable development" is "development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

The "triple-bottom-line", coined by the organisation SustainAbility, states that: "At its broadest, the term is used to capture the whole set of values, issues and processes that companies must address in order to minimise any harm resulting from their activities and to create economic, social and environmental value. This involves being clear about the company's purpose and taking into consideration the needs of all the company's stakeholders – shareowners, customers, employees, governments, local communities and the public." In other words, companies should act in a manner that is economically sound, environmentally friendly and socially responsible, by involving all the relevant stakeholders.

As can be seen from the above definitions, corporate governance and sustainability are not separate concepts that can be dealt with in isolation in an organisation. They both take into account the interest of stakeholders, not just shareholders. In terms of company law however, directors owe a fiduciary duty only to shareholders and not to stakeholders. This dichotomy raises the issue of short-term returns that are of paramount importance to shareholders, versus the long-term returns and sustainability of an organisation that are usually of greater importance to stakeholders. In many cases the organisation will only take a short-term view to satisfy shareholders, without considering the long-term risks which may impact negatively on the sustainability of an organisation. This is contrary to both good risk management and sustainability within an organisation. There needs to be alignment of sustainability and corporate governance principles and practices.

Further principles that link these concepts include materiality and transparency. What are the material issues of risk for the organisation? Companies need to decide what their material risks are, and once these are identified, they need to be managed.

One of the material risks facing business in Southern Africa is HIV and AIDS. According to King II, the board of directors should measure and understand its HIV and AIDS risk, put in place strategies to manage this risk, monitor the outcomes of these strategies and report regularly to stakeholders.<sup>1</sup> In many cases companies are measuring and managing HIV and AIDS risk, and measuring the outcomes, but transparency and materiality in reporting is lacking.

When considering statutory reporting in South Africa, the following organisations are subject to the Code. (The recommendations of the King Report summarised in the Code on Corporate Practices and Conduct).<sup>1</sup>

- All listed companies;
- Large public entities;
- Banks, financial and insurance entities; and
- Large unlisted public companies
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These organisations must include a statement by its directors that the company supports and has applied the principles of the Code in their annual reports. The main problem in most organisations is that more attention is given to the corporate governance structures in the Code and less or no

attention is given to other recommendations in the Code, such as those relating to stakeholder communications:

"It is the board's duty to present a balanced and understandable assessment of the company's position in reporting to stakeholders. The quality of the information must be based on the guidelines of openness and substance over form. Reporting should address material matters of significant interest and concern to all stakeholders. Reports and communications must be made in the context that society now demands greater transparency and accountability from corporations regarding their non-financial affairs including, for example, their employment policies and environmental issues."<sup>1</sup> The implications for corporations, is that they are no longer operating in a vacuum, accountable only to shareholders for making a profit. This needs to be translated into greater transparency across all the activities of an organisation, which should be reported on, and open to vigorous scrutiny and debate by stakeholders.

This means that many companies that are confident that they may be complying with the Code, and therefore the corporate governance within their organisations, are in effect not doing so. They are omitting to look at non-financial issues such as HIV and AIDS, which are a material risk to the organisation, and in so doing may be jeopardising the sustainability of their organisations.

## **References**

1. King Report on Corporate Governance for South Africa, 2002 (King II)

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# Disability grant or antiretroviral therapy? A grim choice for people with HIV & AIDS in South Africa\*

by Chloe Hardy and Marlise Richter



Section 27 (1) (c) of the South African Constitution provides that everyone has the right of access to “social security, including, if they are unable to support themselves and their dependants, appropriate social assistance”. A number of people with physical and mental disabilities have been able to access social security in the form of a “disability grant” from the Department of Social Development. In many instances, people living with HIV & AIDS (PWA’s) who have become seriously ill have been able to access a temporary disability grant. While the grant was originally intended to assist people who cannot work by virtue of their disability (the starting point is thus the ill-founded assumption that there are enough jobs for everybody who wants one in South Africa), the grant functions as a ‘*de facto* poverty alleviation grant’<sup>1</sup> – not only for the person with a disability, but in many instances for his or her extended family.

In November 2003, the South African government announced its intentions of rolling-out a public sector anti-retroviral (ARV) plan. While progress has been at snail’s pace in a number of provinces,<sup>2</sup> substantially more PWAs dependent on the public sector health system have been able to access ARVs than in the past. This has given rise to a situation where PWAs who are disability grant recipients and have become well on the ARVs, are not eligible for the disability grant anymore. Towards the end of 2004, the AIDS Law Project was approached by staff of a public hospital who expressed concern that the fear of losing their disability grants may encourage PWAs to refuse ARV treatment or not take ARVs correctly in order to keep their disability grants. Thus, an untenable situation has arisen where many PWAs are forced to choose between receiving their disability grant or accessing life-saving medication.<sup>3</sup> The AIDS Law Project was asked to investigate the problem.

## Research findings

“I am worried to hear that the grants are being reviewed because I don't think I qualify any more. My health has improved since I started ARV's. I am very worried, because my grant is my only means of support. I think I am only alive today because of the grant.”

**- Disability grant recipient, Wattville, East Rand**

Two major themes emerged from the information collected from advice offices, home-based care organisations, support group co-ordinators, and PWAs who were either recipients or potential recipients of disability grants:

Administrative law issues relating to problems with the non-uniform manner in which grant applications are processed, the review and termination of grants, and information provided to recipients.

Substantive issues of access to social security for people who do not qualify for existing grants, but whose survival is precarious without state assistance.

From the research and interviews that were conducted, it was clear that the current social security system is not equipped to deal with the challenges of the HIV epidemic. It does little to assist PWAs

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\* This article is an abbreviated version of an article by the same authors entitled “Disability Grants or Anti-retrovirals? A quandary for people with HIV/AIDS in South Africa”. The article was submitted to *the African Journal of AIDS Research*.

<sup>1</sup> Committee of Inquiry into a Comprehensive System of Social Security for South Africa, entitled *Transforming the Present – Protecting the Future* March 2002, p.30

<sup>2</sup> See AIDS Law Project and Treatment Action Campaign ‘Let Them Eat Cake’ – A short assessment of provision of Treatment and Care 18 months after the Adoption of the Operational Plan, 8 June 2005, Available <http://www.polity.org.za/pdf/JCSMF.pdf>

<sup>3</sup> For an in-depth discussion of this dilemma, see Nattrass, N. (forthcoming) Trading-off Income and Health? AIDS and the Disability Grant in *South Africa Journal of Social Policy* and Simchowitz, B. (2004) Social Security and HIV/AIDS: Assessing “Disability” in the context of ARV treatment *Centre for Social Science Research Working Paper* No.99, University of Cape Town, December 2004.

who are unemployed and living in poverty, but who are not yet “ill enough” to qualify for a disability grant.<sup>4</sup> Similarly, the system is not responsive to PWAs who have become dependent on the disability grant, but who do not qualify for it anymore due to an improvement in health as result of ARVs.

The loss of disability grants and the absence of a more comprehensive package of social assistance have the potential of undermining the state ARV roll-out in a very important respect: patients with no stable form of income may be unable to attend the required monthly appointments with clinics, which will have an impact on the efficacy of the treatment, may lead to potentially dangerous side-effects going undetected, and may jeopardise their continued involvement in the state programme. There is also the question of access to adequate nutrition, which does not appear to be adequately addressed by current state initiatives.

## Recommendations

From our initial research findings, we would like to make the following recommendations:

The Departments of Health and Social Development should work together more closely to ensure that every PWA who takes up treatment is able to access appropriate, healthy and adequate food as well as safe water. No new policies are needed for this, as the theoretical frameworks are in place already.<sup>5</sup> It is the urgent and comprehensive implementation of these policies that is severely lacking.

The Department of Social Development should devise strategies that would target the family members of PWAs and alert them to social support that they are entitled to, and assist them in accessing the social grants – for example, many families are entitled to the child support grant and the old age pension. This could reduce the dependence of the family on the disability grant.

Hospital and clinics should assist PWAs with transport to medical facilities, if patients cannot afford to come to monthly consultations.

These recommendations should be implemented in tandem with the broadening and strengthening of the social safety net for all of South Africa’s poor.

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a Metropolitan AIDS Solutions Communiqué

### Disclaimer

The views and opinions expressed in this publication do not necessarily reflect those of Metropolitan. As always, we encourage responses on any of the issues covered.

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<sup>4</sup> In a number of provinces the qualifying criteria for a disability grant for a PWA was having a CD4 count of less than 200. In 2004, the national Department of Social Development standardised the criteria to a PWA who has reached the World Health Organisation’s classification of third Stage AIDS development. Correspondence between the AIDS Law Project and Ms D. Poee, D. (Director: Disability and Retirement Benefits, Department of Social Development), 12 November 2004.

<sup>5</sup> For an overview of government programmes on food, see D. Brand “Between availability and entitlement: The Constitution, Grootboom and the right to food” *Law, Democracy and Development*, Vol. 7, No.1, 2003, pp.10-19.