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HIV AND AIDS POLICY

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Authorised Signature:

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1. DEFINITIONS

- **HIV AND AIDS** Human Immuno-deficiency Virus and Acquired Immune Deficiency Syndrome
- **Workplace** means premises of a municipality including satellite offices and or work areas.

2. LEGISLATIVE FRAMEWORK

This policy is established within the framework of the following legislation and regulations:

- Basic Conditions of Employment (No 75 of 1997)
- Collective agreements as amended
- Compensation for Occupation Injuries and Diseases Act (No 130 of 1993)
- Employment Equity Act (No 55 of 1998)
- Labour Relations Act (No 66 of 1995)
- Occupational Health and Safety Act (No 85 of 1993)

3. OBJECTIVES

- 3.1. To promote health awareness and provision of information on HIV/AIDS to all levels of employment.
- 3.2. To protect the rights of employees who have been infected with HIV/AIDS in the workplace.
- 3.3. To ensure non-discrimination between individuals with HIV infection and those affected in the workplace. To ensure that no person discriminates against an employee or prospective employee on the basis of their HIV status.
- 3.4. To create a safe and healthy working environment for all employees and members of the public who utilise the municipality's facilities.

4. APPLICABILITY

The policy shall apply to all prospective employees and all existing employees of the municipality including municipality managers and managers directly accountable to

municipality managers in terms of section 56 of the Local Government: Municipal Systems Act 2000 (Act of 2000 as amended).

5. POLICY PRINCIPLES

- 5.1. The principle for voluntarism which acknowledge that most effective form of referral is self-referral.
- 5.2. The principle of confidentiality will ensure the safeguarding of the details that employees reveal and non-sharing of employees' records other than with the employee's consent. Revealing the HIV/AIDS status of an employee is a punishable offence and HIV information shall not be part of the employee's personal file.
- 5.3. The principle of neutrality will ensure that the functions of the HIV/AIDS counsellor should not be tainted by workplace issues or be influenced by any staff member including those in management.
- 5.4. The principle of accessibility, committing management to make the HIV/ AIDS service available to all employees.
- 5.5. Employees living with HIV/AIDS have the same rights and obligations like all other employees. This includes employees living with HIV/AIDS having access to the same training, development and promotion opportunities in the workplace as other employees.
- 5.6. An employee's service cannot be terminated, retrenched or refused the job due to being HIV positive.
- 5.7. The principle of permanency, which guarantees the survival of the municipal employee HIV/ AIDS programme.

6. POLICY PROVISIONS

6.1. Prevention and Care Programmes

- 6.1.1 The municipality will develop compressive and effective on-going education programmes. All employees shall be exposed to educational programmes.
- 6.1.2 These workplace programmes will be done in consultation with the management, trade unions and where appropriate NGO's and CBO's with expertise in HIV/AIDS education counselling and care services.

6.1.3 Peer educators shall be identified, trained and supported to promote HIV / AIDS programmes in the workplace.

6.2. Education and Awareness programmes

- 6.2.1 The employer will endeavour to, within the scope of its budget constraints, provide educational programmes regarding HIV/AIDS for employees.
- 6.2.2 The programmes should provide information and teach the skills necessary for all employees to prevent employees and others from becoming infected.
- 6.2.3 Programmes shall be regularly monitored, evaluated, reviewed and revised in accordance with any changes that may occur.
- 6.2.4 Education and awareness programmes shall be linked, where feasible, to other health promotion programmes.
- 6.2.5 An extensive range of awareness activities shall be implemented as may be necessary to promote HIV / AIDS awareness.

6.3. Gender Specific Programmes

- 6.3.1 All programmes should be gender sensitive as well as sensitive to race and sexual orientation.
- 6.3.2 The programmes should help women to understand their rights, both within and outside the work place. Programmes should include strategies to create awareness of the women's high risk of infection.
- 6.3.3 Targeted prevention programmes for men should be developed to include strategies to promote men's responsibilities regarding HIV/AIDS prevention.

6.4. Voluntary Counselling and Testing

- 6.4.1 The employer shall encourage all employees to be tested to determine their HIV status.
- 6.4.2 Testing shall be voluntary and shall be accompanied by pre and post test counselling to ensure informed consent and the testing records must remain confidential.
- 6.4.3 Employees/ prospective employees who voluntary disclose their HIV status will not be refused employment/ promotion on the grounds of the HIV status.
- 6.4.4 Employees have the legal right to confidentiality about their HIV/AIDS status,

expect in circumstances where employer is legally required to disclose such information.

6.5. Confidentiality of Disclosure

- 6.5.1 All persons with HIV/AIDS have the legal right to privacy regarding their HIV status in all aspect of employment.
- 6.5.2 An employee is under no obligation to inform the employer of his/her HIV status.
- 6.5.3 Where an employee chooses to disclose his/her HIV status to the employer, this information will not be disclosed to others without employee's consent.

6.6. Compensation for HIV/AIDS infection at Work

- 6.6.1 The municipality will take all reasonable steps in terms of the Compensation for Occupation Injuries and Diseases Act (130 of 1993) to assist employees with claims for compensation and compensate for cost of testing and prophylactic therapy before zero-conversion as performed by specified health centres.

6.7. Employee Benefit Schemes

- 6.7.1 The municipality will endeavour to ensure that employees with HIV/AIDS will not be discriminated against in allocation of employee benefits.

6.7.1.1 Medical Aid Schemes

The municipality will prevail on these funds to maintain a non-discriminatory attitude towards patients with HIV/AIDS and treat such patients in a similar manner to those affected by other life-threatening diseases.

6.7.1.2 Pension/Retirement Funds

The municipality will maintain a non-discriminatory attitude towards patients with HIV/AIDS and to treat such patients in a similar manner to these affected by any other life-threatening disease.

6.8. Managing HIV Positive employees

- 6.8.1 Employees living with HIV/AIDS shall continue to work under normal conditions in their current employment for as long as they are medically fit to do so. This takes into consideration not only their ability to perform the assigned duties but

also, susceptibility to infection.

- 6.8.2 The municipality shall work towards ensuring that the performance of every staff member is maintained where possible. This includes taking reasonable steps to accommodate employees with related HIV/AIDS impairments within the workplace, to assist them to continue in productive employment.
- 6.8.3 Employees with HIV/AIDS shall be managed without distinction or discrimination to existing sick leave allocations.
- 6.8.4 Employees shall be referred to appropriate health care facilities or services in the immediate community of municipal workplaces when required.
- 6.8.5 The municipality shall endeavour to provide support or take steps to assist employees with HIV/AIDS to have access to appropriate medical treatment. These shall include:
 - Giving the employee time off according to the sick leave policy to attend clinics or counselling.
 - Transferring the employee to lighter or less stressful duties, where it is both necessary and possible.
 - When the employee is no longer able to work, the employee shall be dealt with in terms of the municipality's applicable policies and applicable legislation.

6.9. Grievance Procedure

- 6.9.1 The municipality will ensure that rights of employees living with HIV/AIDS are integrated in the existing grievance procedure.
- 6.9.2 The municipality will create an awareness and understanding of the remedies available to employees who are discriminated against on the basis of their HIV status.
- 6.9.3 The municipality shall develop special measures to ensure confidentiality of the complaints during such proceedings, including ensuring that such proceedings are held in private.
- 6.9.4 Where disputes may arise in relation to HIV/AIDS in the workplace the municipality will take steps to deal with such issues.

6.10. Termination of employment due to ill-health

6.10.1 The municipality is obliged to follow accepted guidelines regarding termination of employment due to incapacity/ ill-health:

- a) This will include attempts to accommodate the employee's disability and to find alternatives to dismissal.
- b) An employee cannot be compelled to undergo a HIV test or to disclose his or HIV status as part of incapacity proceedings.
- c) Where an employee no longer has the capacity to continue working the municipality may lawfully terminate the employee's services. The municipality will follow fair procedures as stipulated in the Labour Relations Act.

6.11. HIV/AIDS Workplace Committee

6.11.1 The implementation of this policy will be co-ordinated by Health and Safety Workplace Committee. The committee will submit regular progress reports to relevant committees of the Municipality's Council.

7. ROLES AND RESPONSIBILITIES

7.1 All employees are responsible and accountable for complying with this policy.

7.2 The Municipal Manager or his /her nominee accept overall responsibility for implementation and monitoring of the policy.

8. DISPUTE RESOLUTION

Any dispute arising from this policy due to ambiguous wording or phrasing must be referred to the Local Labour Forum for adjudication. Resolutions from the Local Labour Forum shall be incorporated in the policy.