

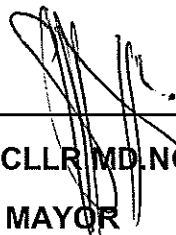
# HIV/AIDS POLICY



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## **1. PREAMBLE**

HIV/AIDS is one of the major work place challenges of this century. The impact at the workplace is felt in various ways including absenteeism, decrease in productivity, deaths, etc. The municipality is fully aware of the fact that in the Absence of clear policy guidelines and the lack of information on HIV/AIDS status, may lead to unfair discrimination of employees living with HIV/AIDS by fellow employees and may create an environment which is not conducive to long term survival of employees living with HIV/AIDS. It is therefore the responsibility of the Municipality to provide a clear policy on how to deal with and to protect employees against unfair discrimination due to their HIV/AIDS status.

## **2. OBJECTIVES**

The main objectives of this policy are:-

- 2.1 To create and promote a workplace environment/climate which is conducive to long term survival of HIV/AIDS infected employee.
- 2.2 To eliminate unfair discrimination in the workplace against HIV/AIDS infected employees.
- 2.3 To provide guidelines for dealing with unfair discrimination against HIV/AIDS employees.
- 2.4 To provide framework and promote appropriate and effective ways of managing HIV/Aids in the work place.
- 2.5 To provide framework for support programmes for employees living with HIV/AIDS.

## **3. PRINCIPLES**

- 3.1 The municipality upholds and protects the human rights and dignity of employees living with HIV/AIDS.
- 3.2 The municipality acknowledges that HIV infected employees can live a very long and productive life and can make a major contribution to overall performance of the municipality.
- 3.3 Employees who divulge their HIV/Aids positive status will be protected from workplace discrimination and information on their HIV/Aids status will be kept confidential (unless they prefer otherwise).
- 3.4 HIV/Aids positive employees may be used to participate in HIV/AIDS education campaigns if they so wish.
- 3.5 The Municipality will provide employees living with HIV/Aids ( if the divulge their HIV/Aids status) with counseling services and other forms of support.

## **4. LEGISLATIVE FRAMEWORK**

- 4.1 The policy should be read in conjunction with the Constitution of South Africa Act, no108 of 1996 and all relevant legislation, which includes the following:
  - 4.1.1 Employment Equity Act, no 55 of 1998
  - 4.1.2 Labour Relations Act, no 66 of 1995
  - 4.1.3 Occupational Health and Safety Act, no 85 of 1993
  - 4.1.4 Compensation for Occupational Injuries and Diseases Act, no 130 of 1993.

- 4.1.5 Basic Conditions of Employment Act, no 75 of 1997
- 4.1.6 Medical Schemes Act, No 131 of 1998
- 4.1.7 Promotion of Equality and Prevention of unfair Discrimination Act, No 4 of 2000.

## **5. ROLES AND RESPONSIBILITIES**

### **5.1 THE CORPORATE SERVICES DEPARTMENT**

- 5.1.1 Coordinate awareness and education campaigns within the work place on HIV/Aids
- 5.1.2 Protect and treat as confidential information on the HIV/Aids (positive) status of employees.
- 5.1.3 Receive and process grievances lodged by employees in respect of unfair discrimination on grounds of HIV/Aids status
- 5.1.4 Organise support programmes for employees living with HIV/Aids
- 5.1.5 Institute disciplinary measures against staff member/s who discriminate against other employees on the ground of their HIV/Aids status.
- 5.1.6 Identify cases where there is a need for employees to divulge their HIV/Aids status and make recommendations
- 5.1.7 Identify jobs that would be hazardous or outside the ability of the employees living with HIV/Aids .

### **5.2 EMPLOYEES LIVING WITH HIV/AIDS**

- 5.2.1 Inform the municipality of his/her HIV/Aids status in cases where the nature of his/her Work may present real possibility for transmission to either his/her colleagues or clients of the municipality.

### **5.3 MANAGERS**

- 5.3.1 Treat with confidentiality all information that they might be aware of regarding the HIV/Aids status of employees unless the employee chooses otherwise.

### **5.4 COUNCIL**

- 5.4.1 Oversee the implementation of the HIV/Aids policy.

### **5.5 EMPLOYEES**

- 5.5.1 Voluntary go for HIV/Aids testing
- 5.5.2 Refrain from discriminating against employees living with HIV/Aids.

## **6. PROTECTION OF EMPLOYEES WITH HIV/AIDS AGAINST DISCRIMINATION**

- 6.1 No employee of the municipality will be discriminated against or treated unfairly on the ground of or due to his/ her HIV/Aids status.
- 6.2 No employee will be unfairly discriminated against people from the designated and non-designated groups

- 6.3 Provisions contained in clause 6.1 above also apply in respect of recruitment, promotion, training and development and succession planning.
- 6.4 Employees who are of the view that they have been discriminated against or treated unfairly due to  
Their HIV/Aids status may lodge a grievance with the Corporate Services Department.

## **7. CONFIDENTIALITY**

Information on the HIV/Aids status of employees should be kept strictly confidential unless the employee chooses to divulge his/her status. All staff members of the Corporate Services Department  
And the Finance Department should sign a certificate of oath in respect of confidentiality.

## **8. DISCIPLINARY CASES AGAINST UNAUTHORISED DISCLOSURE**

- 8.1 The municipality will take disciplinary measures against employees that have disclosed the HIV/ Aids status of the employee without prior approval of the employee.
- 8.2 Disciplinary measures will also be taken against employees who discriminate against employees living with HIV/Aids
- 8.3 Grievance / claims on unfair discrimination against employees due to their HIV/Aids status should  
be lodged directly to corporate Services Department.
- 8.4 An employee should be given feed back within 5 days on how his/ her grievance is to be processed.
- 8.5 The Corporate Services Department may, with a period of 14days, appoint an investigator.
- 8.6 If the grievance is against the corporate Services Department and the employee is of the view that the department may not handle his/her case in a fair and unbiased manner, the grievance may be lodged directly with Municipal Manager
- 8.7 If the grievance is against the municipality, the employee may still lodge the case with council, with the intention of providing the municipality with an opportunity to retify the case.
- 8.8 In the case where amicable resolution is not reached within the municipality and with the council, the employee may refer the case to the CCMA.
- 8.9 The employee has the right to be represented at all stages of the grievance and disciplinary proceedings by his/her employee organization or any other representative of his/her own choice as per the provisions of the grievance and disciplinary procedure.

## **9. HIV/TESTING AND DISCLOSURE**

- 9.1 The municipality may not require an employee or job applicant to under take a HIV/Aids test unless the nature of the job of the employee so requires.
- 9.2 In cases where the municipality deems it necessary that the employee or job applicant undertakes the HIV/Aids test, the municipality must approach the Labour Court for authorization.
- 9.3 The municipality may provide testing to an employee who has requested a test in the following circumstances:

- 9.3.1 In order to access HIV/Aids support programmes that are provided by the municipality.
- 9.3.2 In the event of an occupational accident carrying a risk of exposure to blood or other body fluids.
- 9.3.3 For the purposes of applying for compensation following an occupational accident involving a risk of exposure to blood or other body fluids .

## **10. SUPPORT PROGRAMME TO EMPLOYEES LIVING WITH HIV/AIDS**

Support programme to be provided to employees living with HIV/Aids will include counseling services and cover some costs for medication.

### **10.1 Counseling services**

- 10.1.1 All employees living with HIV/AIDS will be provided, at no cost, with the counseling services, which may also include (at the request of the employee) the immediate family members.
- 10.1.2 In order to access the service, the employee must first divulge his/her HIV/Aids status.
- 10.1.3 This service will be provided by a professional to be contracted by the municipality.
- 10.1.4 The municipality will from time to time (3-5years) enter into a contract with a professional service provider to provide professional counseling services at the request of the Corporate Services Department.

### **10.2 Cover for medication costs**

- 10.2.1 The municipality is to establish an HIV/Aids fund for its employees, which is to be used to provide medication to employees living with HIV/Aids. If such fund is to be established, only the municipal manager may be the accounting officer of such a fund and only sign for withdrawals in accordance with decisions of the council and for the sole purpose for which the fund was established.
- 10.2.2 Only those disclosed their status can have a certain percentage from the fund.

### **10.3 Provision of condoms**

- 10.3.1 Part of the municipality's strategy for prevention of HIV/Aids is to provide employees and councillors with condoms.
- 10.3.2 Provisions of clause 10.3.1 above will be implemented with the assistance of the Department of Health.

## **11. AWARENESS & EDUCATION CAMPAIGN**

- 11.1 Organised awareness campaigns should be done with conjunction with the Department of Health
- 11.2 The awareness and education programmes should be done on a periodic basis, preferable on a six monthly basis.