



DRAFT POLICY ON HIV/AIDS

Date Approved:	
Date Implemented:	

1. PURPOSE

The purpose of this policy is to provide clarity with regard to HIV/AIDS and the comprehensive management of HIV positive employees and employees living with AIDS within the Municipality. The Policy is also aimed at focusing on aspects of HIV/AIDS which, if not carefully addressed may impact negatively on service delivery and/or the well-being of municipal employee and their affected families.

The Municipality joins the **Partnership against HIV/AIDS** and commits itself to initiating and supporting a multi-sectoral response to HIV and AIDS; TB and STI's at the local level by:-

- Publicly acknowledging the seriousness of the epidemic;
- Protecting and promoting the health of its residents;
- Minimizing the personal and social impact of HIV and AIDS; TB and STI's;
- Challenging discrimination; and
- Mobilising and supporting community responses.

2. SCOPE OF APPLICABILITY

2.1 IN TERMS OF THE CONSTITUTION, THE OBJECTIVES OF LOCAL GOVERNMENT ARE:

- To provide democratic and accountable government for local communities;
- To ensure the provision of services to communities in a sustainable manner;
- To promote social and economic development;
- To promote a safe and healthy environment; and

- To encourage the involvement of communities and community organizations in the matters of local government.

The Municipality will therefore strive to meet all the requirements specified in the Constitution to identify and implement effective responses to HIV and AIDS; TB and STI's at the local level within the context of good governance.

3. DEFINITIONS

3.1 "**STI**" means Sexually Transmitted Infections.

3.2 "**LAC**" means Local Aids Council.

3.3 "**HCT**" HIV Counseling and Testing.

3.4 "**LM**" Local Municipality.

3.5 "**ART**" Antiretroviral treatment.

4. POLICY PRINCIPLES

- The promotion of equality and non-discrimination between individuals with HIV infection and those without and between HIV and AIDS; TB and STI's and other comparable health/medical conditions.
- The creation of a supportive environment for HIV infected employees to be able to continue working under normal conditions in their current employment for as long as they are medically fit to do so.
- The protection of human rights and dignity of people living with HIV and AIDS; TB and STI's is essential in the prevention and control of the diseases.
- HIV and AIDS; TB and STI's impacts disproportionately on women and this should be taken into account in the development of workplace policies and programmes.
- People with HIV and AIDS; TB and STI's shall be involved in all prevention, intervention and care strategies.
- People with HIV and AIDS; TB and STI's, their partners, families and friends shall not suffer from any form of discrimination.
- Full community participation in prevention and care shall be developed and fostered.

- Both the Municipality and civil society shall be involved in the fight against HIV and AIDS; TB and STI's.
- STI's prevention and control are central elements in the response to HIV and AIDS; and TB.

5. OUTLINE OF THE HIV AND AIDS; TB AND STI'S PROGRAMMES

5.1 CO-ORDINATION AND IMPLEMENTATION

The Municipality shall:

- Appoint a HIV and AIDS; TB and STI's coordinator;
- Communicate the policy to all staff;
- Implement, monitor and evaluate the Municipality's HIV and AIDS; TB and STI's programmes;
- Advise management and staff;
- Liaise with local AIDS service organisations and other resources in the community through Local Council and Wards Aids Committee;
- Create a supportive and non-discriminatory working environment.
- Create an enabling environment for all service organizations and departments in response to HIV and AIDS; TB and STI's.

5.2 PROGRAMME COMPONENTS

It is proposed that the programme of the Municipality shall provide all staff access to:-

- Information, education and communication activities;
- Barrier methods;
- Health services;
- Treatment of STI's and opportunistic infections for infected employees;
- Personal protective equipment for staff who may potentially be exposed to blood or blood products;
- Support for both infected and affected staff.

5.3 BUDGET

HIV and AIDS; TB and STI's has a number of short- and long-term financial implications. The effect of HIV and AIDS; TB and STI's will impinge on all employment areas and these needs to be considered and budgeted for, e.g.:-

- Appointment and training of an HIV and AIDS; TB and STI's Co-ordinator;
- Training of educators and Counsellors;
- Care and support for the infected and affected employees; and
- Funding of the HIV and AIDS; TB and STI's programme, e.g. prevention, education, and information;
- Personnel multi-skilling;
- Personnel data base.

6. INTERACTION WITH PROVINCIAL AND NATIONAL GOVERNMENT

6.1 HIV TESTING, CONFIDENTIALITY AND DISCLOSURE

No employer may require an employee, or an applicant for employment, to undertake an HIV test in order to ascertain the employee's HIV status. As provided for in the Employment Equity Act, employers may approach the Labour Court to obtain authorisation for testing.

6.1.1 Authorized testing

Employers must approach the Labour Court for authorisation in, amongst other, the following circumstances:-

- During an application for employment;
- As a condition of employment;
- During procedures related to termination of employment;
- As an eligibility requirement for training or staff development programmes; and
- As an access requirement to obtain employee benefits.

6.1.2 Permissible testing

An employer may provide testing to an employee who has requested in the following circumstances:-

- As part of a health care service provided in the workplace;
- In the event of an occupational accident carrying a risk of exposure to blood or other body fluids;

- For the purposes of applying for compensation following an occupational accident involving a risk of exposure to blood or other body fluids.

6.1.3 HIV Counseling and Testing (HCT)

- HIV Counseling and Testing will be available to all employees.
- HCT will be done through the Local Aids Council.

7. EMPLOYEE BENEFITS

- Employees with HIV and AIDS may not be unfairly discriminated against in allocation of employee benefits.
- Employees who become ill with AIDS should be treated like any other employee with a comparable life threatening illness with regard to employee benefits.
- Information from benefit schemes on the medical status of an employee should be kept confidential and should not be used to unfairly discriminate against the person.
- Where an employer offers a medical scheme as part of the employee benefit package it must ensure that this scheme does not unfairly discriminate directly or indirectly against any person on the basis of his/her HIV status.

8. PERFORMANCE MANAGEMENT

8.1 Absenteeism

- Employees living with HIV and AIDS; TB and STI's will be entitled to receive paid time off to visit health care centres to obtain medication and receive counselling centres during, working hours.

8.2 Sick leave

- Employees living with HIV and AIDS; TB and STI's are entitled to the normal full paid sick leave on submission of a medical certificate issued by a registered medical practitioner (80 days per 3 year cycle with full pay).
- Upon utilisation of all full paid sick leave, an employee will have access to half paid sick leave while he/she is still under treatment (80 days per 3 year cycle with half pay – subject to Salga agreement).

- Upon utilisation of all half paid sick leave, an employee will automatically be on unpaid leave until he/she recovers, unless the doctor recommends otherwise (subject to Salga agreement).

8.3 Transfer of lighter duties

- When an employee living with HIV and AIDS; TB and STI's is no longer able to perform his/her normal duties, the Municipality should replace him/her to lighter or less stressful duties without affecting his/her remuneration package.
- The procedure to be followed is that an employee should obtain a letter from the registered medical practitioner with reasons for recommendation. The Head of the Department concerned, together with Human Resources, will deal with the matter accordingly.

8.4 Ill-health and Early Retirement

- When an employee is no longer able to perform his/her normal duties due to HIV and AIDS; TB and STI's, he/she should be offered early retirement due to ill-health. The employee's early retirement, due to HIV and AIDS; TB and STI's, should include all the benefits normally due to employees who retire early, due to ill-health, he/she should be advised to do the HCT in order for to qualify for ART's.
- A recommendation from the medical practitioner, stating that an employee is no longer fit for work, must be provided as part of the process.

8.5 Employee counseling

- An employer shall make provision for counselling of employees, who are living with HIV and AIDS; TB and STI's within the workplace. Interested people be identified and trained as AIDS counsellors.
- An employer should make provision for a counselling centre that will have counsellors available during working hours.

8.6 Membership to medical schemes

- The employer shall encourage HIV and AIDS; TB and STI's employees to join medical aid funds which provide services for these diseases.

9. PROCEDURE FOR DISMISSAL

- Employees with HIV and AIDS; TB and STI's may not be dismissed solely on the basis of their statuses.
- Where an employee has become too ill to perform their current work, an employer is obliged to follow accepted guidelines regarding dismissal for incapacity before terminating an employee's services, as set out in the Code of Good Practice on Dismissal contained in Schedule 8 of the Labour Relations Act.

10. PROMOTING A SAFE WORKPLACE

- An employer is obliged to provide and maintain, as far as is reasonably practicable, a workplace that is safe and without risk to the health of its employees.
- The risk of HIV transmission in the workplace is minimal. However, occupational accidents involving bodily fluids may occur, particularly in the health care professions. Every workplace should ensure that it complies with the provisions of the Occupational Health and Safety Act, including the Regulations on Hazardous Biological Agents, and the Mine

Health and Safety Act, and that its policy deals with, amongst others:-

- The risk, if any, of occupational transmission within the particular workplace;
- Appropriate training, awareness, education on the use of universal infection control measures so as to identify, deal with and reduce the risk of HIV transmission in the workplace;
- Providing appropriate equipment and materials to protect employees from the risk of exposure to HIV;
- The steps that must be taken following an occupational accident including the appropriate management of occupational exposure to HIV and other blood borne pathogens, including access to post-exposure prophylaxis;
- The procedures to be followed in applying for compensation for occupational infection;
- The reporting of all occupational accidents; and
- Adequate monitoring of occupational exposure to HIV to ensure that the requirements of possible compensation claims is being met.

11. COMPENSATION FOR OCCUPATIONALLY ACQUIRED HIV

- An employee may be compensated if he or she becomes infected with HIV as a result of an occupational accident, in terms of the Compensation for Occupational Injuries and Diseases Act.

- Employers should take reasonable steps to assist employees with the application for benefits including:-
 - Providing information to affected employees on the procedures that will need to be followed in order to qualify for a compensation claim; and
 - Assisting with the collection of information, which will assist with proving that the employees were occupationally exposed to HIV, infected blood.
- Occupational exposure should be dealt with in terms of the Compensation for Occupational Injuries and Diseases Act. Employers should ensure that they comply with the provisions of this Act and any procedure or guideline issued in terms thereof.

12. INFORMATION AND EDUCATION

- The Municipality shall ensure that copies of the Code of Good Practice on Key Aspects of HIV and AIDS; TB and STI's and Employment Equity Act are available and accessible.
- Employers, employee's organisations and trade unions shall include the Code in their orientation, education and training programmes of employees.

13. GRIEVANCE PROCEDURE

- Employers should ensure that the rights of employees with regard to HIV and AIDS; TB and STI's, and the remedies available to them in the event of a breach of such rights become integrated into existing grievance procedures.
- Employers should create an awareness and understanding of the grievance procedures and how employees can utilize them.
- Employers should develop special measures to ensure the confidentiality of the complainant during such proceedings, including ensuring that such proceedings are held in private.

14. COUNSELLING

- Accessible counseling services are an important component for infected and affected individuals.
- The objectives of HIV and AIDS; TB and STI's counseling are education, care and support.
- Special training is required to equip all HIV and AIDS; TB and STI's counselors with the necessary skills through LAC.

14.1 The Municipality undertakes to:-

- Provide counselling services for employees and the community.

14.2 Diagnosis and treatment of STI’s:-

The Municipality will implement a programme to manage STI’s which involve the following elements:-

- Early diagnosis and effective treatment;
- A health education programme to enhance understanding of STI’s;
- Screening, programmes to identify “silent” (asymptomatic) infections;
- Adequate treatment of contacts; and
- Provision of HIV and AIDS; TB and STI’s counseling and testing STI patients.

15. BUDGET

The Council must provide an amount on its annual budget for the implementation of this policy.

16. CONCLUSION

The Municipality embraces the challenge presented by the HIV and AIDS; TB and STI’s epidemics, confident of its leadership commitment and of its ability to mobilise and support non-discriminatory prevention and care responses in partnership with communities and sectors.

17. COUNCIL APPROVAL AND EFFECTIVE DATE

Approval of Policy by Council and Effective date: -----

MUNICIPAL MANAGER

DATE

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