



HIV & AIDS POLICY

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1. PREAMBLE

The Municipality recognises the seriousness of the HIV/AIDS epidemic and its impact on the workplace. The Municipality supports national efforts to reduce the spread of infection and minimise the impact of the disease.

The Municipality as employer recognises the importance of its employees and its employees and its responsibility to care for their personal well being in the workplace. The employer is therefore aimed to address the psycho-social issues which may disturb employees infected and affected by HIV/AIDS and assents to create a supportive and supportive and caring environment for those affected and infected by HIV/AIDS.

The Municipality acknowledges that in dealing with the HIV/AIDS issue, it is dealing with sensitive and personal behaviour. The Municipality does not presume to encroach on personal practices but wishes to promote a responsible attitude and understanding of the risk of AIDS by being proactive rather than reactive in its policy.

The Council also wants to establish the fundamental principle that HIV/AIDS should be treated like any life-threatening condition.

The policy & procedure is designed to:

- ⌘ Reinforce a mature and enlightened culture and approach to HIV and AIDS;
- ⌘ To ensure that staff living with HIV/AIDS have the same rights and obligations as other staff;
- ⌘ To take steps to enhance the health of employees who are HIV positive and reduce their exposure to a debilitating illness;
To avoid discrimination and prejudice among employees towards HIV positive employees;
To maintain maximum stability and productivity in the workplace.
- ⌘ To promote consistency in dealing with the issues of AIDS and HIV in the work environment.
To create a balance between rights and responsibilities of all parties relating to HIV/AIDS.

2. DEFINITION/ ABBREVIATIONS

AIDS	Refers to Acquired Immune Deficiency Syndrome
Care	Means a broad term referring to the steps taken to promote a person's well-being through medical, psychological, spiritual and other means
Confidentiality	Means the right to every person, employee or job applicant to have their medical information including HIV status kept private.
Consent	Means the decision to have an HIV test must be obtained prior the testing. The employee must understand the nature and purpose of the test and be given counselling.
HIV	Refers to Human Immunodeficiency Virus.
HIV Positive	Means having tested positive for HIV infection
HIV testing	Taking a medical test to determine person's HIV status. This may include written or verbal questions enquiring about previous HIV tests, questions related to the assessment risk behaviour and any other direct method designed to ascertain an employee's or job applicant's HIV status
Pre and Post Counselling	A process of counselling, which facilitates understanding of the nature and purpose of the HIV test. It examines what advantages and disadvantages the test holds for the person and the influence the result, positive or negative will have on them.
Prophylaxis	Means prevention treatment against disease
Treatment	Means prevention treatment against disease
Workplace exposure	Means the exposure to blood and other body fluids which may be HIV infected, during the course of carrying out duties

3. LEGISLATIVE FRAMEWORK

- ✘ Employment Equity Act 55 of 1998
- ✘ Labour Relations Act 66 of 1995
- ✘ Code of Good Practice: Key Aspects of HIV/AIDS and Employment
- ✘ Occupational Health and Safety Act 85 of 1993
- ✘ Compensation for Occupational Injuries and Diseases Act
- ✘ Basic Conditions of Employment Act 75 of 1997
- ✘ Medical Schemes Act, 131 of 1998

4. SCOPE OF APPLICATION

This policy & procedure applies to all candidates who apply to the Municipal for employment and all employees of the Municipality.

5. OBJECTIVES OF THE POLICY

This Policy aims to guide the Municipality's employees and prospective employees on how best to manage HIV/AIDS, it further provides a framework of information and action that will guide the Municipality in providing an appropriate response to HIV and AIDS by :

- ✘ Ensuring non-discrimination between individuals with HIV infection and those affected (e.g co-workers) and between HIV/AIDS and other life-threatening conditions.
- ✘ Providing a safe working environment as far as is reasonably practicable.
- ✘ Introducing educational awareness and prevention programmes to contain and prevent the spread of HIV and AIDS
- ✘ Ensuring that no person will be denied employment, treated unfairly within the employment relationship or be unfairly dismissed on the basis of his/her HIV status

6. GENERAL PRINCIPLES

6.1 Greater Taung Local Municipality based this workplace policy on HIV/AIDS on the following needs and principles:

- ✘ All employees have the same rights and obligations, whether they are HIV positive or not
- ✘ HIV testing will only be done on voluntary basis, with informed consent
- ✘ Confidentiality regarding the HIV status of any employee shall be maintained at all times,
- ✘ HIV and AIDS shall not constitute a reason to preclude any person from employment. This include access to training and promotion.
- ✘ To develop partnerships with the private and public sector, non-governmental organisations and the community in order to foster better social responsibility.

6.2 This means that no person with HIV/AIDS will be treated unfairly with regard to, inter alia:

- ✘ recruitment procedures, advertising and selection criteria; appointments and the appointment process;
- ✘ job classification or grading;
- ✘ remuneration, employment benefits and terms and conditions of employment;
- ✘ job assignments.
- ✘ the working environment and facilities;
- ✘ training and development;
- ✘ performance evaluation systems; promotion, transfer and demotion;
- ✘ disciplinary procedures.

7. PROCEDURES AND PROGRAMMES

7.1 HIV and AIDS testing

7.1.1 No employee, or applicant for employment will be tested for HIV/AIDS by or on behalf of the Municipality during the implementation of any employment policies, policies, procedures or practices including but not limited to:

- ✘ An application for employment
- ✘ As a condition of employment
- ✘ As an access requirement to obtain employee benefits
- ✘ During procedures related to termination of services

7.1.2 The employer has to make an application to the Labour Court to have an HIV/AIDS tests done on an employee and such test may only be done once a ruling is obtained or made by Labour Court.

7.1.3 HIV testing must be carried out with informed consent which means that the individual has been made aware of, and understands, the implications of the test.

7.1.4 An employer is permitted and may provide testing to an employee who has requested a test in the following circumstances :

- ✘ As part of a health care service provider in the workplace
- ✘ In the event of an occupation accident carrying a risk of exposure to blood or other body fluids.
- ✘ For the purpose of applying for compensation following an occupational accident involving a risk of exposure to blood or other body fluids.

Such testing may only take place within the following defined conditions

- ✘ All the initiative of an employee
- ✘ Within a health care worker and employee-patient relationship
- ✘ With informed consent and pre and post-test counselling

7.2 Voluntary Counselling and testing

7.2.1 An employee is thus under no obligation to disclose their status to their employer or fellow employees.

7.2.2 Employees or applicants who voluntarily disclose their HIV status will not be refused employment/promotion on the grounds of their HIV status

7.2.3 Employees who wish to be tested for HIV/AIDS shall have access to counselling and referral to appropriate facilities.

7.3 Confidentiality and Disclosure

7.3.1 All persons with HIV/AIDS have the legal right to privacy regarding their HIV status in all aspects of employment.

7.3.2 An employee is under no obligation to inform the employer of his/her HIV status.

7.3.3 All employees have the legal right to confidentiality about their HIV/AIDS status except in circumstances where the employer is legally required to disclose such information, or the employee give express consent that his/her status can be disclosed.

7.4 Prevention programmes

7.4.1 Workplace exposure

7.4.1.1 There are numerous ways in which employees could be exposed to HIV/AIDS in the workplace such as :

- ✘ Injuries that occur resulting in bleeding and blood staining of clothes, tools and objects
- ✘ Health care employees exposed to body fluids or HIV- Infected materials
- ✘ Resuscitation and first aid measures
- ✘ Rape or sexual penetrating assault
- ✘ Assault with sharp instruments or bleeding injuries

7.4.1.2 If an employee is exposed to blood and or other body fluids (through a needle stick instrument) or if infected blood or body fluids come in contact with mouth or eye mucous membranes, open wounds and cuts, the following precautions should be applied:

- ✘ Immediately rinse blood and body fluid splashes from the skin, eyes and mouth with water or (preferably) with an antimicrobial solution.
- ✘ If it is a workplace injury immediately report the accident to your supervisor and follow the procedure in accordance with Compensation Act.

7.4.2 Educational programmes

7.4.2.1 The employer shall provide educational programmes for all employees.

7.4.2.2 These programmes will provide information and teach the skills necessary for all employees to prevent themselves and others from becoming infected and combat discrimination.

7.4.2.3 Programmes will be regularly monitored, evaluated, reviewed, and revised in accordance with any changes that may occur.

7.4.2.4 Programmes should be linked, where feasible, to health promotion programmes such as substance abuse.

7.4.3 Creating safe working environment

7.4.3.1 The Municipality will strive to provide and maintain a safe working environment and without risk to the health and safety of its employees.

7.4.3.2 The Municipality will provide psycho-social support to the Counsellors and affected employees wherever possible.

7.4.3.3 The Municipality will take steps to ensure the risk of HIV transmission at work.

7.4.3.4 Providing appropriate equipment and materials to deal with and reduce the risk of transmission at work.

7.4.3.5 Where a real possibility of HIV transmission has occurred following an occupational accident, rape or a penetrating assault, the Municipality will take all reasonably necessary steps to assist the employee to:

- ✘ Assess the risk of HIV transmission through counselling
- ✘ Prevent the risk of HIV transmission prior to zero-conversion (testing and treatment/prophylaxis)

7.5 Compensation for HIV/AIDS infection at work

7.5.1 The Municipality will take all reasonable steps in terms of the Compensation for Occupational 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.

7.5.2 A claim to the Compensation Commissioner will only be submitted upon confirmation of zero-conversion of the employee.

7.6 Employee Benefit Schemes

7.6.1 The Municipality will endeavour to ensure that employees with HIV/AIDS not be discriminated against with the allocation of employee benefits.

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

7.7 Pension/ Retirement funds

7.7.1 No person should be denied access to the Pension or Retirement funds provided they fulfill initial criteria for admission.

7.8 Gender specific programmes

7.8.1 All programmes should be gender sensitive as well as sensitive to race and sexual orientation

7.8.2 Programmes should help women to understand their rights, both within and outside the workplace

7.8.3 Information to women needs to alert them to the fact that they are at higher risk of infection

7.8.4 Appropriately targeted prevention programmes should be developed for men and should include strategies to promote men's responsibilities regarding HIV/AIDS prevention.

7.9 Awareness Programmes

7.9.1 Every Directorate, Department, depot or workplace will participate towards developing and implementing a workplace HIV/AIDS Awareness campaigns.

7.9.2 The Municipality will provide life-skills training and empowerment programmes for all its employees and these will focus on :

- ✘ Health promotion, prevention and care
- ✘ Appropriate prevention and management of STD's & TB (and other opportunistic infections)
- ✘ Condom promotion and distribution
- ✘ Counselling on risk reduction

8. MANAGING HIV/AIDS POSITIVE EMPLOYEES

8.1 Employees living with HIV/AIDS will continue to work under normal conditions in their current employment for as long as they are medically fit to do so.

8.2 The Municipality will work towards ensuring that the performance of every employee is maintained where possible.

8.2.1 The above includes taking reasonable steps to accommodate employees with related HIV/AIDS impairments within the workplace, to assist them to continue in productive employment.

8.2.2 Employees with HIV/AIDS will be governed without distinction or discrimination to existing sick leave allocations (Medical Aid Policy)

8.2.3 If health care facilities or services are not available at the workplace, employees will be referred to appropriate services facilities.

8.4 The Municipality will endeavour to provide support or take steps to assist employees with HIV/AIDS to have access to appropriate medical treatment. This will 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 will be dealt with in terms of the Municipality's conditions of service and policies as well as applicable labour legislations.

8.2.4 Pre-test counselling should be given before an HIV test, to make sure that the person has sufficient information to make an informed decision about having a HIV test

8.2.5 Post-test counselling should be provided when an individual receives his/her HIV test results.

9. TERMINATION OF EMPLOYMENT

9.1 Employees with HIV/AIDS have the right not to be unfairly dismissed on the basis of their HIV status.

9.2 Diagnosis of a person's HIV/AIDS status is not a sufficient reason to dismiss an otherwise health person.

9.3 The Municipality is obliged to follow accepted guidelines regarding dismissals for incapacity before terminating an employee's services.

9.4 The above will include attempts to accommodate the employee's disability and to find alternative to dismissal.

9.5 The Municipality will ensure that as far as possible, the employee's disability and to find alternatives to dismissal.

9.6 An employee cannot be compelled to undergo an HIV test or to disclose his or her HIV status as part of incapacity proceedings.

9.7 Where an employee no longer has the capacity to continue working, the Municipality may lawfully terminate the employee's services. It would need to follow fair procedures in line with the Labour Relations Act 66 of 1995.

10. MONITORING AND IMPLEMENTATION

10.1 The implementation of this policy will be coordinated by the Employment Equity and Training Committee.

11. DISPUTE RESOLUTION

11.1 Any grievance/complaint arising from this policy must be dealt with in accordance with Clause 13 of the Main Collective Agreement.

12. POLICY REVIEW

12.1 This policy shall be reviewed as and when necessary, in compliance with the relevant legal framework.