

HIV AND AIDS POLICY

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1. BACKGROUND AND INTRODUCTION OF HIV AND AIDS

- 1.1. HIV disease and its terminal stage, Acquired Immune Deficiency Syndrome (AIDS), is a condition caused by infection called Human Immunodeficiency Virus (HIV) which systematically destroys the body's immune system, rendering it defenceless against infection and other diseases.**
- 1.2. AIDS is a disease that affects millions of South Africans. A virus called HIV, which stands for Human Immunodeficiency Virus, causes it. This virus slowly weakens a person's ability to fight off other diseases, by attaching itself to, and destroying important cells that control and support the human immune system (CD 4 + cells). After a person is infected by HIV, he or she, although infectious to others, can look and feel fine for many years before AIDS is developed.**
- 1.3. There is no question among the majority of the world's scientists that HIV causes AIDS. The average period between getting infected with HIV and developing AIDS is 5 to 7 years in the absence of treatment.**
- 1.4. Although antiretroviral drugs can prolong life and improve the general health of the Person Living with AIDS (PWA), there is no cure at present.**

2. PREAMBLE

- 2.1 The Municipality is committed to creating and maintaining a safe working environmental for all employees. The Municipality undertakes to deal with an HIV infected employee and / or employees with AIDS in the same manner as with the employees suffering from any other life –threatening disease, with due consideration for the interests of fellow employees. All seriously ill patients will be monitored in order to ensure appropriate and adequate medical care. No exception will be made in the case of AIDS sufferers**
- 2.2 To acknowledge the seriousness of the HIV / AIDS epidemic. Seeks to minimize the social, economic and developmental consequences to the Matatiele Local Municipality and its staff. Commits itself to providing resources and leadership to implement a HIV/ AIDS programme; and commits itself to create a supportive and non – discriminatory working environment through dispelling of myths and stereotypes and offering counselling and education services to affected and infected employees.**

3. LEGAL FRAMEWORK

- 3.1. This policy is governed by the following labour legislation:**
- 3.2. The Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)**
- 3.3. The Labour Relations, 1995 (Act No. 66 of 1995)**
- 3.4. Basic Conditions of Employment, 1997 (Act No. 75 of 1997)**
- 3.5. Compensation of Occupational, Injuries and Disease, 1993 (Act No. 130 of 1993)**
- 3.6. Employment Equity Act, 1998 (Act No. 55 of 1998)**
- 3.7. Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)**
- 3.8. Public Service Regulations 2001**
- 3.9. National Policy on testing as Gazetted by the Minister of Health, Gazette No. 20710**
- 3.10. The Code of Good Practice on Key Aspects of HIV/AIDS and Employment**

3.11. Charter of Rights on AIDS and HIV

3.12. National Patient's Rights

3.13. Responsibilities of the patient

4. OBJECTIVES OF THE POLICY

4.1 The HIV/AIDS policy for the Matatiele Local Municipality has the following objectives: -

- 4.1.1. To promote health awareness and the provision of information on AIDS to all levels of employment.**
- 4.1.2. To reduce unrealistic fears about contracting AIDS at the workplace.**
- 4.1.3. To protect the legal rights of members of council and employees at work who have AIDS.**
- 4.1.4. To provide guidelines on managing members of council and employees or situations, when questions on AIDS are raised.**
- 4.1.5. To encourage members of council and employees to convey sensitivity and understanding to employees affected with AIDS.**
- 4.1.6. To monitor, at corporate level, the process of the awareness programmes, evaluate its effectiveness and efficiency and to ensure that qualitative standards of service are maintained throughout.**
- 4.1.7. To minimize the physical, psychological, social and financial impact of AIDS for the member of council and employee and their family.**

5. APPLICATION OF THE POLICY

- 5.1 The policy shall apply to all candidates who apply to the Municipality for employment.**
- 5.2 The policy shall also apply to all current employees of the Municipality.**

6. POLICY RULES

- 6.1. Members of Council and employees living with HIV/AIDS have the same rights and duties as other employees/ members of Council.**
- 6.2. Testing for HIV, with informed consent (as required by the SA Medical and Dental Council) and pre-test and post-test counselling, shall be offered to any members of Council and employee who feels he/she may be at risk.**
- 6.3. Members of Council and employees are not required to divulge their HIV status to the employer, however should such information become known, it is to be regarded as confidential and provision should be made for post-test counselling for such members of Council and employees.**
- 6.4. Testing of employees as a condition of employment may be effected within the confinement of the law.**
- 6.5. No flags or symbols shall appear on any employee's medical or personnel records to indicate HIV status and disclosure to persons other than the person to whom the initial disclosure was made requires the employees' written consent.**
- 6.6. Employees, known to be infected with HIV/AIDS shall remain in their normal employment positions and all Managers must ensure a safe working environment through the promotion of universal precautions.**
- 6.7. An employee with HIV/AIDS is entitled to the same sick leave benefits as any other employee.**
- 6.8. HIV/AIDS shall not be used as a justification for refusal to**

perform normal duties.

- 6.9. An employee has the right to seek recourse in the event of discrimination, in line with the Municipality's grievance procedure.
- 6.10. The law does not require that a death certificate indicate a person's HIV status and therefore the employer has no right to know whether the employee has died of an AIDS-related illness.

7. PROMOTION AND TRAINING OPPORTUNITIES

- 7.1. An employee who is known to have HIV/AIDS is entitled to the same promotion and training opportunities as any other employee.
- 7.2. No employee shall be required to take an HIV test as a pre-requisite for an employment decision.

8. REGULATIONS

8.1. Light Duty and Transfers

No employee shall have his/her employment terminated solely on the basis of his/her HIV status.

- 8.1.1. No employee will be removed from his/her position at work for as long as medical opinion from a qualified medical practitioner indicates that he / she can still fulfil his/ her job requirements and if alternative employment and/ or job modification become necessary, this will only be provided on medical or legal grounds.
- 8.1.2. The Municipality makes an undertaking that each case is to be dealt with on its own merit.
- 8.1.3. The procedures referred to in 4.4 and 4.5 which protects the employee's right to confidentiality shall not be contravened and disclosure of the employee's HIV status shall be deemed an offence in terms of the Council's Disciplinary Code and Code of Conduct.

8.2 Employees at "Risk"

- 8.2.1 'Risk' refers to those employees who could be exposed to HIV/AIDS by the nature of their employment.
- 8.2.2 Staff of emergency services and First Aid Persons are considered to be at risk of occupational exposure to HIV infection.
- 8.2.3 'At Risk' employees must be provided with the appropriate personal protective equipment, and failure to wear such protective equipment shall be deemed as an offence under the Council's Disciplinary Code.
- 8.2.4 Employees who are infected occupationally can claim under the provisions of the Compensation for Occupational Injuries and Diseases Act (130/1993) as amended which defines an injury as any injury or disease, which arise out of and happen during the course of employment.
- 8.2.5 Initial diagnosis and treatment will be for the expense of the Municipality, subject to the Municipality claiming the amount from Workmen's Compensation Commissioner, provided the employee had adhered to the adequate protective measures.

8.3 Workplace Health and Safety

- 8.3.1** The Municipality shall assess and manage the risk, if any, of occupational exposure to HIV by ensuring that the employee receives prompt Voluntary Counselling and Testing and post exposure prophylaxis.
- 7.3.2.** In the event of an employee being tested HIV positive as a result of the occupational injury, the employee will receive assistance in applying for compensation in terms of Compensation for Occupational injuries and Diseases Act, 1993 (Act no 130 of 1993) and Occupational Health and Safety Act 1993 (Act no. 85 of 1993)

8.4. Education

- 8.4.1.** The Municipality supports the implementation of ongoing education and awareness programmes for all employees so as to reduce the spread of HIV infection and to combat ignorance and discrimination and such education shall be compulsory for all members of Council and employees, including Management.
- 8.4.2.** The HIV/AIDS Programme of the Matatiele Local Municipality shall provide all members of Council and employees access to:
 - 8.4.2.1.** Information, education and communication activities, including media materials and peer education.
 - 8.4.2.2.** Barrier methods, i.e condoms.
 - 8.4.2.3.** Services for the appropriate management of HIV/AIDS.
 - 8.4.2.4.** Counselling services.
 - 8.4.2.5.** Personal protective equipment for the staff who may potentially be Health exposed to blood or blood products.
 - 8.4.2.6.** Occupational support for both infected and affected staff and their immediate family members.

8.5 Implementation

- 8.5.1** The Municipality shall provide staff resources, time and funding for the full implementation of the policy across all Municipal Services.
- 8.5.2** The Municipality shall endeavour to utilise all opportunities to interact with civil societies to contribute to the mission and objectives of the National HIV and AIDS Programme.
- 8.5.3** The Municipality shall also endeavour to interact with all Central and Provincial Government Departments regarding the epidemic.
- 8.5.4** Members of Council and employees will be held responsible and accountable for complying with this Policy and HIV and AIDS Programmes will take place during working hours and employees will be encouraged to attend such programmes.
- 8.5.5** Management is also responsible for the implementation of the Policy, ensuring compliance with and knowledge of its terms and for taking immediate and appropriate corrective measures where warranted Managers must open and maintain communication channels to allow employees to raise concerns concerning HIV and AIDS. Managers are encouraged to attend the programmes to give visible support to the programm
- 8.5.6** As a basis for the implementation of a comprehensive HIV/AIDS strategy within the Municipality, it will be necessary to establish the prevalence of

HIV/AIDS within the Municipality and the Council accepts that in order to establish this prevalence a once-off “BLIND TESTING” of Municipal employees shall be actively promoted.

- 8.5.7** There shall be an HIV and AIDS Support group made up of all Departmental HIV and AIDS Representatives.
- 8.5.8** The main function of the Support group will be to provide guidance and support to the entire HIV and AIDS Programme in the workplace.
- 8.5.9** Each Department within the Municipality shall appoint an HIV/AIDS Representative.
- 8.5.10** An HIV/AIDS Representative shall be appointed by the constituency of each department
- 8.5.11** An HIV /AIDS Representative shall: -
 - 8.5.12** Be extensively trained to provide counselling and support to the employee who has disclosed his / her HIV and AIDS status, and shall abide by principles of confidentiality.
 - 8.5.13** Shall be required to sign an oath of confidentiality.
 - 8.5.14** Facilitate the referral of members of council and employees infected / affected by HIV and AIDS in support of organisations or service providers
 - 8.5.15** Identify appropriate service providers that specialise in HIV and AIDS related counselling and treatment.
 - 8.5.16** Undertake to provide members of Council and employees with appropriate information and training.
- 8.6. Benefits for Members of Council and Employees Living with HIV and Aids**
 - 8.6.1.** The Municipality shall appoint HIV and AIDS Departmental Representative
 - 8.6.2.** The HIV and AIDS Representatives shall be responsible for all the Departmental HIV and AIDS matters.
 - 8.6.3.** The HIV and AIDS Departmental Representative will conduct his / her duties in an outside office, operated by the Municipality, for the purposes of confidentiality.
 - 8.6.4.** An Employee who voluntary want to disclose, must disclose to the Manager or the Departmental Health and Safety Representative.
 - 8.6.5.** An employee who has disclosed shall be entitled to:
 - 8.6.5.1.** Indefinite sick leave, provided there is a valid medical certificate provided by a registered and qualified medical practitioner;
 - 8.6.5.2.** Full payment of his/ her salary during sick leave
 - 8.6.6.** Employees who have disclosed their status shall not be subjected to medical boarding or to incapacity proceedings due to ill health.
 - 8.6.7.** The Municipality will provide employees who are infected and or affected by HIV and AIDS access to confidential counselling and assistance.
 - 8.6.8.** The provisions of the Employee Assistance Programme Policy will be adhered to with regard to counselling services.
 - 8.6.9.** The Municipality will provide the Immune Boosting Supplements, subject to the availability of budget

9. MONITORING AND EVALUATION

- 9.1. The monitoring and evaluation and review of HIV/AIDS programmes in the Municipality are ongoing activities.**
- 9.2. The Employee Assistance Programme practitioner /designate will undertake to research, monitor, evaluate and review such programmes to develop best practices.**
- 9.3. This process will be undertaken without discrimination against any employee because of their HIV status.**

10. INTERPRETATION OF THE POLICY

- 10.1. All words contained in this policy shall have a direct grammatical meaning unless the definition or context indicates otherwise.**
- 10.2. The dispute on interpretation of this policy shall be declared in writing by any party concerned.**
- 10.3. The office of the Municipal Manager shall give a final interpretation of this policy in case of a written dispute.**
- 10.4. If the party concerned is not satisfied with the interpretation of the policy, a dispute may then be referred to the South African Local Government Bargaining Council.**

11. PERMANENT / TEMPORARY WAIVER OF THIS POLICY

- 11.1. This policy may be partly or wholly waived by the Municipal Council on temporary or permanent basis.**
- 11.2. Notwithstanding clause 11.1 the Municipal Manager may under circumstances of emergency temporarily waive this policy subject to reporting of such waiver to Council.**

12. AMENDMENT AND OR REPEAL OF THIS POLICY

- 12.1. This policy may be partly or wholly amended by the Council.**
- 12.2. This policy may be partly or wholly repealed by the Council.**

13. VIOLATION OR NON – COMPLIANCE WITH THIS POLICY

- 13.1. Violation of or non –compliance of this policy will give a just cause for disciplinary steps to be taken.**
- 13.2. It will be the responsibility of all Managers, Supervisors, Executive Committee and Council to enforce compliance with this policy.**

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