



! Kheis
Munisipaliteit
Municipality

HIV/AIDS POLICY

**!KHEIS LOCAL MUNICIPALITY
HIV/AIDS Programme**



**HIV/AIDS POLICY
DOCUMENT**

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!KHEIS LOCAL MUNICIPALITY

- Acknowledges the seriousness of the **Human Immune – deficiency Virus Infection (HIV)** and the **Immune Deficiency Syndrome (AIDS)** epidemic.
- Seeks to minimize the social and economic impact of the Municipality, its employees and the broader society.
- Commits itself to providing leadership to implement an HIV/AIDS programme.
- Acknowledge its commitment to ensure a workplace that is a non-discriminatory environment for person infected and affected by HIV/AIDS.

1. OBJECTIVES

- To provide the management of !Kheis Local Municipality with a normative framework within which to understand, come to termed with and deal with the reality of AIDS.
- The !Kheis Local Municipality acknowledge that in, dealing with the AIDS issue, he is dealing with sensitive and personal behaviour.
- The !Kheis Local Municipality encroach on personal practices but wishes to promote a responsibility attitude and understanding to the risk of AIDS.
- This is in line with the Municipality policy of being proactive rather than reactive in its reproach to AIDS.
- To establish the fundamental principle that HIV + and AIDS shall be treated like any life threatening condition.
- This policy will therefore be adapted and updated when the needs arises.

The policy is designated to:

- Reinforce a mature, human and enlightened culture approach to HIV/AIDS.
- To reduce fear and prevent over reaction among employees.
- To ensure that employees living with HIV/AIDS have the same rights and obligations as other employees.
- To take steps to enhance the health of employees who are HIV + and reduce their exposure to debilitating illness.

- To avoid discrimination and prejudice among employees towards HIV + employees.
- To maintain maximum stability and productivity in the workplace.
- To contribute towards curbing the spread of AIDS by providing information, counselling and support to all employees.
- To maintain the confidentiality, dignity and rights and responsibilities relating to HIV/AIDS.
- To promote consistency in dealing with the issue of HIV and AIDS in the work environment.
- To create a balance between rights and responsibilities relating to HIV/AIDS.
- To promote a non – discriminatory environment in which people living with HIV/AIDS are able to be open their status without fear, stigma or rejection.

2. CO-ORDINATION AND IMPLEMENTATION OF PROGRAMME

The !Kheis Local Municipality shall:

- Assist in ways to communicate the policy to all employees
- Implement, monitor and evaluate their HIV/AIDS programme.
- Laise with other State Departments, HIV/AIDS organisations and NGO's.
- Create a support system for infected and affected employees their families and communities.
- To appoint an HIV/AIDS co-ordinator who are fully trained and will be an expert in the field of HIV/AIDS.
- Updated HIV/AIDS information will be placed on notice boards.

3. ROLLS AND RESPONSIBILITIES

31. EMPLOYEES

- All employees shall be hold responsible and accountable to carry out this policy.
- All HIV/AIDS programmes will take place during office hours and employees will be obliged to attend the HIV/AIDS sessions.

3.2 MANAGEMENT

- To ensure that monitoring, evaluation and training is a priority.
- To oblige to attend all HIV/AIDS sessions, to give visual support to the programme.

3.3 UNIONS

- They will assist in monitoring HIV/AIDS related grievances and awareness of HIV/AIDS related issues.

4. HIV/AIDS AND EMPLOYMENT

- The Municipality will by all means ensure that no victimisation or prejudice take place against any employer, HIV positive or HIV negative.
- No person with HIV/AIDS will be treated unfairly in regard to HIV/AIDS.

HIV positive employees are entitled to the same benefits as HIV – negative employees.

ON THE OTHER HAND

HIV negative employees shall be expected to conduct themselves at all times in a responsible manner in regard to their medical conditions and to be sensitive to the concerns of their fellow employees.

5. TESTING HIV/AIDS IN THE WORKPLACE

- The Municipality will not require prospective employee to be tested for HIV prior to employment. Any examination taken before employment shall not include a HIV test.
- The Municipality will not require any current employee to be tested for HIV.

- Where testing is done at the initiative of the employee, this will be done with his/her informed written consent and accompanied by Pre-test counselling.

NOTE

The Municipality will assist any employee who wishes to be test for the HIV Virus by means of:

- Assessing the appropriate HIV/AIDS consultant who will provide the Pre-test and Post-test counselling.
- Ensuring confidentiality of such request and the subsequent result.

6. TESTING FOR HIV/AIDS **PRE-EMPLOYMENT TESTING**

- The Municipality will not ask potential employees to be tested for HIV unless application from the Labour Court has been obtained.
- Any medical examination taken before employment or thereafter shall be solely to determine functional performance and to offer prognosis on the fitness of work of the prospective employee.

7. CONFIDENTIALITY

- All persons with HIV or AIDS have the legal right to privacy.
- Should an employee discover that he/she is HIV positive (+) he/she is under no obligation to inform management.
- Should an employee discover that he/she is in a full-blown AIDS staged he/she should be encouraged, in confidence to inform management who will under no circumstances inform anyone else unless with the consent of the employee.
- Management will assist the employee by providing concerned and sensitive support in the workplace.

- A breach of confidentiality with any privileged information regards HIV status shall be subject disciplinary action and is a dismissible offence.
- The Municipality will offer support to employees who are living with HIV or AIDS and who voluntarily disclose their status, by ensure that persons who are open about their HIV status are not unfairly discriminated against or stigmatised.

8. PRE- TEST COUNSELLING

- All employees, who wishes to test for HIV, shall firstly and in all cases receive Pre-test counselling.
- The HIV Rapid and Eliza test will be use.
- Continuous counselling and support will be given during this period.
- The result of the test may be available to management only after the consent of the relevant employee has been obtained.

9. HIV/AIDS, EMPLOYMENT AND CAPACITY TO PERFORM

- An employee who is HIV positive (+) will continue to enjoy normal and equal employment benefits and opportunities as those employees who are HIV negative (-).
- Canteen/hostel facilities
- Ablution facilities
- Sport and Recreation facilities
- Transport
- Protective clothing
- If an employee makes his/her HIV status known voluntarily, it shall not be a basis for refusing to continue or to renew an employment contract.

- When an employee is not capable of performing the contractual obligations due to prolonged absenteeism or physical incapability, the normal rules regarding Incapacity will apply, see Labour Relations (Act no 66 of 1995) Code of Good Practise.
- HIV/AIDS shall be treated in the same way as other disabling or terminal conditions. If it becomes clear that the employee is suffering from a chronic illness, the Municipality may require such proof from medical practitioner treating the employee.
- If the results are known and it is clear that the employee has progress to full – blown AIDS stages.
The following options may be explored:
 Alternative suitable employment
 Early retirement (Medical boarding of an employee),
 Termination of services (as a last resort).

10. EARLY RETIREMENT

- This shall be dependent on the rules of the Municipality provident fund and the employee shall be entitled to full payout.

11. ALTERNATIVE EMPLOYMENT IN MUNICIPALITY

- This can only been done with the written consent of the employee .
- Without the consent of the employee it will be breach of contract

12. TERMINATION OF SERVICES (AS A LAST RESORT)

- As the AIDS condition is not within control of the employee absenteeism does not therefore constitute any from the misconduct.

- Records however must be kept of all the consultation and counselling sessions.

The following factors, inter alias, shall be considered when the capacity of the employee with HIV/AIDS is brought into question:

- The prognosis of the employee's health and disability on the function of the Municipality must be determined.
- The impact of the employee's health and disability in the safety and morale of fellow employees and the public.
- The level and status of the employee and the relative disruption to the organisation caused by the employee's ailment.
- The personal circumstances including whether termination of service is against the employee's interest.
- The Municipality should ensure that as far as possible the employee's right to confidentiality regarding his or her HIV status is maintained during any incapacity proceedings.

13. PROMOTING A SAFE WORKING ENVIRONMENT

- The Municipality shall provide and maintain, as far as is reasonably possible, a working environment that is safe and without risk to the health of its employees.
- The risk of HIV transmission in the normal course of employment is Minimal however, occupational accidents involving bodily fluids may occur in exceptional circumstances.

The Municipality health and safety policy deals with:

- The risk, of the occupational transmission of HIV within that particular workplace.
- Rigorous compliance with health and safety standards shall be reinforce.
- Providing appropriate equipment and materials to protect employees from the risk of exposure to HIV.

- All HIV positive employees will have access to Post – Exposure Prophylactics (PEP)

14. COMPENSATION FOR OCCUPATIONAL ACQUIRED HIV

- An employee may be compensated if he/she becomes infected with HIV as a result of an occupational accident, for example, where the employee becomes infected through a needle-stick injury.
- The Municipality shall take reasonable steps to assist employees with the application for benefits including.
- Assisting with the collection of information that will assist in proving that the employees were occupationally exposed to the HIV infection.
- Ensure that all testing is carried out in accordance with section 7(2) of the Employment Equity Act.

15. EMPLOYEE BENEFITS

- Municipality employees with HIV or AIDS may not unfairly discriminated against in the allocation of employee benefits.
- Employee who becomes ill with AIDS should be treated like any other employee with a comparable life-threatening illness with regard to access to employee benefits.
- Information from benefits schemes on the medical status of an employee shall be kept confidential and should not be used by the Municipality or any other party.

16. THE RESPONSE OF FELLOW EMPLOYEES

- In the event of fellow employees refusing to work with an employee, who is HIV, the following rules apply:

- Fellow workers may rise a grievance against working with an HIV positive (+) because of his/her behaviour, attitudes and actions:

The solution of such a grievance will be:

- Intensified training and education of the workforce with regards to HIV/AIDS.
- Management will not transfer or move an HIV + person to an alternative position as a result of a grievance .
- Fellow workers may rise a grievance against being treated by or having to treat a HIV positive (+) employee when first aid is required in the workplace.
- Universal health and safety procedures shall apply in all such cases of injury or illness.
- Management may decide to remove a HIV positive (+) employee from the first aid team.
- If the safety risks cannot be reasonable reduced by, e.g. by issuing standard safety equipment, management consider transferring the HIV + employee to a safer environment.
- The Municipality may not, if the consent of the employee cannot be obtained, implement the transfer unilaterally as this would amount to both an unfair labour practice and breach of contract.
- In event of the employee turning down the offer to alternative employment, termination of employment may be effected in terms of the Incapacity process;
- Where fellow workers still refuse to work with a HIV + employee, after proper education/training and after the solution outlined above are present, then management has the right to discipline such workers for:

Refusal to obey a lawful and reasonable instruction,
AND/OR

Breach of Contract,

AND/OR

Disruption of the normal obligations of the Municipality

17. DISPUTE RESOLUTION/GRIEVANCES

- When any employee harasses another employee due to his/her HIV/AIDS status, he/she will be subjected to strong disciplinary action that could result in termination of services.
- Harassment shall be defined as:
 - Engaging in unwanted verbal, non-verbal or physical conduct that denigrates, humiliates or shows hostility or aversion towards an individual or a group because of their HIV status when such conduct.
 - Has the purpose or the effect of-
 - Creating an intimidating, hostile or offensive environment unreasonable interfering with a person.
 - Adversely affecting a person's opportunities and/or dignity.
- Any dispute between an employee and the Municipality in regards to the application of this code, and which cannot be resolved between the parties themselves, shall be referred to the Conciliation, Mediation and Arbitration in accordance with the Provisions of the Labour Relation Act.

Approved by Council:

