

## **Cederberg Municipality HIV and AIDS Workplace Policy**

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## 1. BACKGROUND TO HIV AND AIDS AND IT'S IMPACT ON LOCAL GOVERNMENT

The municipality acknowledges the seriousness of HIV and AIDS and therefore strive to effectively address the challenges of HIV and AIDS so as to minimize the social economic and developmental impact on employees and the community.

Cederberg Municipality therefore commits itself to ensuring *that* workers are provided with resources and leadership to implement HIV and AIDS programmes at their respective workplaces.

HIV and AIDS poses a serious threat to the functioning of the organisation, in the areas of service delivery, productivity, workplace morale, training and development which necessitates appropriate and focussed policies and programmes to maintain service delivery, creating a safe and healthy work environment whilst avoiding discrimination for those affected and infected by HIV and AIDS within the organisation

Human Immuno-deficiency Virus (HIV) infection and the Acquired Immune Deficiency Syndrome (AIDS) has serious implications for service delivery, employee well being and the municipality's ability to effect developmental local government. .

HIV and AIDS has been seen as a health issue rather than recognised for its wider reaching *development* implications. The implications of HIV and AIDS for local government are severe that affects local economies and focal governments are directly affected by *both* at the revenue level and at the level of needing to increase support and services to ailing communities. 'Whatever the burden of HIV and AIDS may be to countries as a whole, the burden is felt most immediately at local level and communities look to the closest level of government for assistance, namely local government.

## 2. OBJECTIVES OF THE HIV/AIDS POLICY

This policy will guide the Cederberg Municipality, employees and prospective employees on how best to manage HIV and AIDS within the respective administrations, in order to:

- Guide the municipality's departments and all its employees on how best to manage HIV and AIDS in the workplace;
- Ensure non-discrimination of people affected and infected by HIV and AIDS and other life threatening conditions;
- Act as a management *tool* in the maintenance and monitoring of the HIV and AIDS programmes and
- Create a safe and healthy working environment for .all. (employees and members of the public who utilise the Cederberg Municipality's facilities)
- Minimise the impact of HIV and AIDS on the municipality by contributing to national efforts to minimise the spread of HIV and limiting the impact of existing infections on individuals, communities and society and encouraging a commitment towards dealing with HIV/AIDS issues in our department.

To achieve these aims, the policy:

- Acknowledges that HIV and AIDS will have an impact on the organisation;
- Recognises that HIV and AIDS impacts disproportionately on women and this should be taken into account in the development of workplace programmes,
- Provides he organisation with guidelines for managing HIV and AIDS in the workplace;
- Enables employees to be empowered with the necessary information to make life enhancing choices about HIV and AIDS;
- Creates an environment that is non-discrimination and or stigmatising of people living with or affected by HIV and AIDS; and
- Allows for appropriate support for employees living with or affected by HIV and AIDS.

### 3. SCOPE OF THIS POLICY

The provisions of this policy are applicable to all departments, staff and councillors of the Cederberg Municipality.

### 4. KEY PRINCIPLES OF THE HIV/AIDS POLICY

The Cederberg Municipality will through its policies and programmes ensure adherence to the following principles:

- That HIV is preventable and the workplace is a key vehicle to facilitate life supporting behaviour;
- A caring and safe work environment
- Equality and non-discrimination in the workplace;
- Consultation, inclusivity and encouraging full participation of all stakeholders;
- A prohibition on HIV testing
- Confidentiality around HIV status;
- The greater involvement of People living with HIV/AIDS (GIPA); and
- Commitment to resourcing this Policy.

### 5. HIV AND AIDS WORKPLACE PROGRAMMES

#### 5.1 Education and training

The employer shall provide educational programmes for all *employees*. These programmes will empower employees to make life enhancing and sustaining decisions for themselves and their families and address discrimination and stigma.

#### 5.2 Support for people living with or affected by HIV and AIDS

In principle, people living with HIV/AIDS shall be treated in the same manner as employees with other life threatening or terminal illnesses. Employees living with HIV or AIDS are expected to meet the same performance requirements that apply to other employees, with reasonable accommodation, where required.

#### 5.3 Gender specific programmes

- All programmes should be gender sensitive as well as sensitive to race and sexual orientation.
- Programmes should help women to understand their rights, both within the workplace and outside it, and empower them to protect themselves.
- Appropriate education and prevention programmes should be developed for men and should include awareness raising, risk assessment and strategies to promote men's responsibilities regarding HIV and AIDS prevention.

#### 5.4 Voluntary Counselling and Testing

In line with the Employment Equity Act, the municipality does not require HIV testing for applicants or current employees. The municipality however shall encourage and support employees to access VCT services in order for them to make informed decisions around their own and others lives. Such testing shall be voluntary and shall be accompanied by pre- and post-test counselling to ensure informed consent. Employees/potential employees who voluntarily disclose their HIV status will not be refused employment/promotion on the grounds of their HIV status.

*All employees shall have access to testing and counselling related to HIV and AIDS during normal working hours.*

Where HIV testing has been authorised by the Labour Court it will be carried out on the basis of voluntary written consent *and in a manner, which protects the rights and privacy of the concerned employee.*

## 5.5 HIV TESTING

The Employment Equity Act provides that employers may not require employees to test for HIV, unless this is done in accordance under the guidance provided for in this Act deemed permissible testing.

## 5.6 Wellness programmes

The municipality acknowledges that the establishment of HIV health management programmes is core to HIV and AIDS care, counselling, support and treatment of people affected and infected by H/V and AIDS.

## 5.7 Creating a Safe Working Environment

The municipality will provide and maintain as *far as* is reasonable practically possible, a working environment that is safe and without risk to the health of its employees.

The municipality will *take* steps to ensure the risk of HIV transmission at work is minimised. These will include:

Assessing the risk, if any, of the occupational transmission of HIV within the workplace;  
Providing appropriate training on how to deal with and reduce the risk of HIV transmission at work; and  
Providing appropriate equipment and materials to *deal* with and reduce the risk of transmission at work.

Where a real possibility of HIV transmission has occupied following an occupational accident the municipality will take all reasonably necessary steps to assist the employee:

- Assess the risk of HIV transmission; and
- Prevent the risk of HIV transmission.

The municipality will develop guidelines regarding steps to be taken in the event of an occupational incident with a risk of HIV infection for example: The Protocol on the exposure to blood and blood products.

These guidelines will include such elements as:

- Creating an awareness of the risk of HIV transmission in the event of an occupational incident involving blood or bodily fluids; and
- HIV testing of the parties involved in an accident and reporting procedures.

## 5.8 Occupational Exposure

There are numerous ways in which employees *could* be exposed to HIV in the workplace and it is the duty of all employers to ensure that as is reasonably practicable, the working environment is safe and healthy for employees. The Health and Safety Officer will ensure that all employees are familiar with the basic procedures in safety measures where there is potential exposure to HIV.

In the event that an employee is exposed to the risk of contracting HIV in the execution of his/her duties, the employer shall, in addition to following the normal workmen's compensation procedures indicated for such exposure, ensure that the employee is immediately provided with appropriate medical intervention to reduce the risk of contracting HIV. The employer shall also ensure that the employee is supported and counselled.

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

## 5.9 Compensation for HIV Infection at Work

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 applicants for compensation.

## 6. GRIEVANCE PROCEDURES

The rights of employees with HIV and AIDS, and remedies available to employees in the event of a breach of such rights will become integrated into existing grievance procedures.

The municipality will create an awareness and understanding of the remedies available to employees who are discriminated against on the basis of their HIV status.

The municipality will develop special measures to ensure confidentiality of the complainant during such proceedings, including ensuring that such proceedings are held in private.

Where co-workers refuse to work with an employee with HIV and AIDS, the municipality will take steps to deal with this issue, including:

- Investigation into the nature and cause of the dispute;
- Attempt to resolve the dispute through mediation;
- Provide counselling and additional education to all of those involved; and.
- As a final resort, the taking of disciplinary steps against staff causing the disruption.

## 7. INCAPACITY

An employee is incapacitated when they are unable to perform the key functions of their position either due to poor performance, or due to ill health.

The Cederberg Municipality is obliged to follow accepted guidelines regarding dismissals for incapacity before terminating an employee's services. The above will include attempts to accommodate the employee's disability and to find alternatives to dismissal. The municipality will ensure that as far as possible, the employee's right to confidentiality, regarding his or her HIV status is maintained during an incapacity proceeding.

An employee cannot be compelled to undergo an HIV test or to disclose his or her HIV status as part of incapacity proceedings. Where an employee no longer has the capacity to continue working, the Cederberg Municipality may lawfully terminate that employee's services.

## 8. REASONABLE ACCOMODATION

Cederberg Municipality will provide means to reasonable accommodate employees living with HIV or AIDS. The municipality will determine the extent to which an employee living with HIV and AIDS cannot perform his/her duties. For the municipality to determine whether or not an employee should be dismissed from all duties, the guidelines provided by the labour Relations Act must be followed.

Reasonable accommodation refers to those steps that the municipality will take for any employee with a "disability". Reasonable accommodation includes:

- Flexible or part-time working schedules;
- Leave of absence; and
- Work restructuring or re-assignment

## 9. HIV/AIDS COMMITTEE

The implementation of this policy will be co-ordinated by a HIV and AIDS Committee chaired by the HIV and AIDS Coordinator. This Committee will comprise of representatives from various stakeholders and administrations of Cederberg Municipality. This Committee will submit regular progress reports to the Mayoral Committee and the full council.

## 10. POLICY REVIEW

The Human Resource department and HIV and AIDS Committee will review this policy at the end of each year by looking at

- Providing improved mechanisms to address stigma and discrimination;
- Progress on key programmatic areas;
- Additions and amendments;
- Improving implementation;
- Update the policy to include any changes in the legal framework or codes of good practices; and
- Employment practices, staffing and workplace *policies* that may increase the risk of employees and discriminate or stigmatise.

## 11. ADVOCACY AND AWARENESS OF POLICY

The Training Manager and the HIV and AIDS Steering Committee will develop accessible means to communicate and raise awareness of the aims and principles of this HIV and AIDS policy. This policy will be available on the intranet and each department will both a full copy and an executive summary displayed in an accessible area. The heads of departments should take all reasonable measures to ensure staff under their direction is informed and aware of this policy.

## 12. RESPONSIBILITY FOR HIV/AIDS PROGRAMMES AND POLICY

The Training Officer has been assigned delegated responsibility to monitor and oversee all organisational HIV and AIDS policies and programmes, and to ensure that the rights of employees are protected at all times. Implementation of this policy is the responsibility of all managers and supervisors and it is the responsibility of employees to take appropriate measures on being informed about HIV and AIDS and to seek support to make informed life enhancing decisions for them and their families.

## 13. RESOURCING OF IMPLEMENTATION STRATEGY

The HIV and AIDS Steering Committee will draft an annual operational budget and implementation strategy that will inform the programmatic areas of the aims and principles of this policy. The municipality will provide leadership and support to this policy by allocating an annual budget allocation and time frames in line with its transformation and corporate governance frameworks.

## 14. APPENDIX 1: LEGAL FRAMEWORK

This policy was drafted and informed by the following laws, legal principles, relevant workplace policies, and collective agreements, as amended from time to time:

1. The Constitution of the Republic of South Africa, Act of 108 of 1996.
2. The Charter of Rights on AIDS and HIV, 1992,
3. The Labour Relations Act 66 of 1995 as amended
4. The Employment Equity Act 55 of 1998
5. Occupational Health and Safety Act 85 of 1993
6. The Compensation for Occupational Injuries and Diseases Act 130 of 1993
7. The Basic Conditions of Employment Act 75 of 1997 as amended
8. The Department of Labour Code of Good Practice on Key aspects of HIV/AIDS and Employment 2001
9. International Labour Organisation Convention (111) [undersigned by South Africa]
10. Promotion of Equality and Prevention of Unfair Discrimination Act 2000
11. The Guide for Government Departments: Managing HIV/AIDS in the Workplace, 2002
12. The Medical Schemes Act 131 of 1998

**DOEL VAN ITEM**

Aangeheg is 'n skrywe **Bylae "L"** (bls.53-55) ontvang vanaf Departement Plaaslike Regering en Behuising aangaande Cederberg Munisipaliteit se evaluering vir die 2004 Vuna Toekennings.

**Vir kennisname**