

CITY OF CAPE TOWN

HIV/AIDS WORKPLACE POLICY

1. PREAMBLE

The City of Cape Town acknowledges the seriousness of the HIV/AIDS epidemic and seeks to minimize the social, economic and developmental consequences to workers and communities at large.

The City of Cape Town therefore commits itself to ensuring that workers are provided with resources and leadership to implement HIV/AIDS programmes at their respective workplaces. It is noted that during 2001 global estimates showed a total of 40 million adults and children living with HIV/AIDS. It is estimated that 1 400 new HIV infections occur daily in South Africa.

2. OBJECTIVE

The objective of the policy is to provide a set of guidelines to address the HIV/AIDS epidemic in the world of work and within the framework of the promotion of decent work. More specifically the policy and programmes seek to manage the HIV/AIDS epidemic in the workplace by minimising the infection rate among HIV negative employees and extending the economic lifespan of HIV positive employees.

3. PRINCIPLES

- The policy is developed and implemented in consultation with all the relevant stakeholders and their representatives.
- Employees living with HIV/AIDS have the same rights and obligations as all staff.
- Staff living with HIV/AIDS shall be protected against unfair discrimination.
- HIV/AIDS shall not constitute a reason to preclude any person from employment. This includes access to training and promotion.
- HIV testing will only be done on a voluntary basis, with informed consent.
- Confidentiality regarding the HIV status of any member of staff shall be maintained at all times.
- The policy shall be informed and updated by regular health and safety risk assessments.

4. SCOPE

The policy applies to all employees and Councillors within The City Of Cape Town.

5. LEGAL FRAMEWORK

Employees living with HIV are protected by the Constitution of South Africa Act 108 of 1996 and all relevant legislation which includes the following:

- The Labour Relations Act (LRA) No.66 of 1995
- The Basic Conditions of Employment Act (BCEA) No.75 of 1997
- Employment Equity Act No 55 of 1998
- Occupational Health and Safety Act No.85 of 1993
- Compensation for Occupational Injuries and Diseases Act No 130 of 1993
- Medical Schemes Act 131 of 1998
- Promotion of Equality and Prevention of Unfair Discrimination Act No 4 of 2000

6. RIGHTS & RESPONSIBILITIES

All employees shall be held responsible and accountable for complying with this policy.

6.1 City Manager

The City Manager takes overall responsibility for the implementation and compliance of this policy.

6.2 Corporate Human Resources Department

Corporate Human Resources is responsible for:

- Facilitating the distribution of this policy to all Departments and employees.
- Facilitating the implementation of all programmes relating to this policy.
- Provide appropriate benefits counselling to employees requiring such counseling.
- Ensuring that all employees are informed of the content of this policy.

6.3 Managers & Supervisors

All Managers and Supervisors:

- Must ensure that all employees are aware of and understand the content of the policy.
- Are responsible for implementing this policy and ensuring compliance with and knowledge of its terms.
- Must open and maintain communication channels to raise awareness concerning HIV/AIDS, including providing active support for Peer Education Programmes.
- Are to take careful precautions to protect the confidentiality of information regarding any employee's health condition.
- Ensure that any employee who is unduly concerned about contracting HIV/AIDS assisted through individual counseling.

- Must be sensitive to the needs of employees and assist them by demonstrating personal support, referring them to counseling services and arranging for benefits counseling, as necessary.
- Must ensure that immediate and appropriate corrective action is taken where necessary.

6.4 Employees

- Employees should acknowledge that a fellow employee's health condition is private and confidential and an employee living with HIV/AIDS is under no obligation to disclose his/her condition to a manager or any other employee.
- Employees shall not discriminate against fellow employees who are living with HIV/AIDS.
- Employees shall endeavour to play a supportive role towards fellow employees who are living with HIV/AIDS.
- Employees who are aware of their positive HIV status shall take every precaution to not accidentally infect a fellow employee.

6.5 Unions

- The Unions will show commitment to the policy and programmes.
- The Unions will encourage their members to be involved and participate meaningfully into the programmes from inception.

7. HIV/AIDS POLICY

- Pre-employment testing for HIV/AIDS is prohibited and will not be conducted.
- HIV/AIDS status shall not be a criterion for refusing to promote, train or develop an employee.
- Employees who wish to be tested for HIV/AIDS shall have access to counseling and referral to appropriate facilities.
- No employee shall be dismissed or have his/her employment terminated based solely on his/her HIV/AIDS status.
- In the event that an employee is unable to continue to perform the duties for which he/she is employed, suitable alternative employment will be considered.
- The HIV/AIDS status of an employee shall not be used as a criterion to identify or influence the selection of employees for retrenchment.
- The refusal to work with an employee that is HIV/AIDS positive shall be regarded as a disciplinable offence and appropriate action shall be taken.
- Any breach of confidentiality, unless legally indicated, will justify the instigation of disciplinary proceedings against the person who is in breach of that confidentiality.
- Programmes shall encourage employees to disclose their HIV/AIDS status and shall provide appropriate support to such employees.

- All employees shall have access to HIV/AIDS education and awareness programmes.
- Employees living with HIV/AIDS should be treated no less favourably than employees with other comparable health/medical conditions in terms of benefits, workers' compensation and reasonable accommodation.
- Programmes should recognise that women normally undertake the major part of caring for those with HIV/AIDS related illnesses as well as recognising the particular needs of pregnant women

8. PREVENTION PROGRAMMES

8.1 Workplace exposure

There are numerous ways in which employees could be exposed to HIV/AIDS in the workplace.

These, amongst others, include:

- Injuries that occur resulting in bleeding and blood staining of clothes, tools and objects.
- Health care and laboratory 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.

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/AIDS.

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

8.2 Safer sexual practice

HIV infection is preventable and can be prevented through changes in behavior, knowledge, treatment (i.e. Sexually Transmitted Infections and Tuberculosis) and the creation of a non-discriminatory environment.

This policy recommends and promotes the ABC ethos for safe sexual practice:

A - Abstinence

B - Be Faithful to One Partner

C - Condomise

Condoms shall be freely available to all employees, in easily accessible locations.

8.3 Educational programmes

- The employer shall provide educational programmes for all employees
- These programmes will provide information and teach the skills necessary for all employees to prevent themselves and others from becoming infected and to combat discrimination.
- Programmes should be targeted and tailored to the age, gender, sexual orientation and sectoral characteristics.
- Trusted and respected individuals should deliver programmes.
- Programmes should be regularly monitored, evaluated, reviewed and revised where necessary.
- Programmes should be linked, where feasible, to health promotion programmes, such as substance abuse, stress and reproductive health.

8.4 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.
- Information to women needs to alert them and to explain their higher risk of infection.
- Appropriately targeted prevention programmes should be developed for men and should include awareness raising, risk assessment and strategies to promote men's responsibilities regarding HIV/AIDS prevention.

8.5 Voluntary Counselling & Testing

- The Council shall encourage all employees to be tested to determine their HIV status
- Such testing shall be voluntary and shall be accompanied by pre and post- test counselling to ensure informed consent.
- Counselling and Testing records will remain confidential.
- Employees/potential employees who voluntarily disclose their HIV status will not be refused employment/promotion on the grounds of their HIV status.
- All employees have the legal right to confidentiality about their HIV/AIDS status, except in circumstances where legally required.

- All employees shall have access to testing and counseling related to HIV/AIDS during normal working hours.

9. CARE & SUPPORT PROGRAMMES

Recognising that a supportive and caring response is an important factor in maintaining the quality of life for employees who have HIV/AIDS. The Council therefore commits itself to:

- Establishing a comprehensive treatment programme for all employees who are in need of treatment and cannot afford their own treatment. It will exclude employees who are covered by their or their spouses medical aid, unless they have exhausted their benefits for HIV/AIDS treatment in their or their spouse's Medical Aid. Provided that, in the case of employees who have exhausted their medical benefits, Council will only take over treatment if there is no medical risk to placing such employee onto the standard treatment regime offered by Council through its Workplace Treatment Programme. In the case where there is a medical risk, the employer will subsidize the employee's treatment regime by an amount equivalent to that which it would cost the employer were the employee to go on the standard treatment regime provided by the employer. This additional subsidy to be paid for the period that the medical aid benefits mentioned above have been exhausted. The additional subsidy will be available to all employees who have embarked on non-standardized treatment prior to 31 December 2004. Thereafter, it will be expected that all employees who wish to access such support, will do so by means of the standardized treatment program.
- This treatment will be extended to the employee's spouse/partner & children who may be living with HIV/AIDS, provided that the spouse/partner does not have access to treatment within their own workplace either through a workplace programme or through subsidized medical aid.
- Employees in receipt of treatment may be required to contribute a maximum of 1% of monthly salary towards the cost of the treatment, whilst undergoing such treatment. This % shall be determined by the HIV/Aids Workplace Committee and shall be guided by the cost of providing such treatment to Council.
- The treatment shall be provided for as long as the employee remains in employment. Thereafter, treatment shall be provided through referral to the state clinics and hospitals.
- Such services will be provided either on site or at a City Health facility and appropriate treatment will be provided.
- The Council will encourage the establishment of support groups for employees with HIV/AIDS and for their families and colleagues.
- The Council shall provide counselling services to employees.
- The employer shall consult on access to treatment and employee contributions. This shall be reviewed on an annual basis. Consultations shall take place within the Committee.

10. HIV/AIDS GOVERNANCE

10.1 HIV/Aids Workplace Committee

An HIV/AIDS Workplace committee shall be established, to deal with issues emanating from this policy. The Committee established in terms of this Policy will include all stakeholders and will function as a “working group” at the Metro Division of the SALGBC. (For purposes of clarification, the HIV/AIDS Workplace Committee established in terms of this Policy is a Committee established by the City of Cape Town as employer and not in terms of the provisions of the constitution of the SALGBC and the stakeholders are the employer, IMATU and SAMWU.)

10.2 Composition

The Committee referred to in 10.1 will consist of ten (10) members, i.e. five a-side and the unions will be represented on a proportional basis. The Committee may, from time to time or in respect of specific matters, co-opt any person.

10.3 Functions and Duties

- Monitor the impact of the HIV/AIDS epidemic in the workplace
- Monitor the effectiveness and impact of the HIV/AIDS policy
- The revision and/or amendments of this policy, as and when required..
- Recommend changes to legislation and regulations relating to HIV/AIDS including Codes of Good Practice.
- Review, on an annual basis, the means test to be applied to determine which employees shall have access to treatment and what financial contribution such employees should make towards their treatment.

End

18 June 2004