

UMZIMVUBU LOCAL MUNICIPALITY



2

STAFF HIV AND AIDS POLICY

MUNICIPAL STAFF HIV AND AIDS POLICY

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1. DEFINITIONS

- [a] **“Aids”** means Acquired Immune Deficiency Syndrome – a syndrome (a collection of diseases) that results from infection with HIV.
- [b] **“Antiretroviral Medication”** means medication that controls the Human Immunodeficiency Virus.
- [c] **“Care”** means a broad term referring to the steps taken to promote a person’s well-being through medical, psychological, spiritual and other means.
- [d] **“CD4 Count”** means CD4 cells which protect the body against diseases and infections.
- [e] **“Confidentiality”** means the right of every person, employee or job applicant to have their medical information, including HIV status kept private.
- [f] **“EAP Practitioner / designate”** means a person designated or appointed to function as the EAP Practitioner
- [g] **“HIV”** means Human Immunodeficiency Virus – the name of the virus which undermines the system and leads to AIDS.
- [h] **“HIV Testing”** means any form of testing designed to identify the HIV status of a person, including blood tests, saliva tests or medical questionnaires.
- [i] **“Informed Consent”** means the decision to have an HIV test must be obtained prior to testing. The employee must understand the nature and purpose of the test and be given verbal counselling.
- [j] **“Occupational Exposure”** means the exposure to blood and other body fluids which may be HIV infected, during the course of carrying out working duties.
- [k] **“Prevalence of HIV”** means the number of people with HIV at a point in time, often expressed as a percentage of the total population.
- [l] **“Prophylaxis”** means prevention treatment against disease.
- [m] **“STI”** means Sexually Transmitted Infections/Diseases that are passed from one person to another during sex.
- [n] **“Support”** means the services and assistance that could be provided to help a person deal with difficult situations and challenges.
- [o] **“Treatment”** means the medical term describing the steps being taken to care for and manage an illness.
- [p] **“Viral Load”** means the numbers of virus in the body.

2. PREAMBLE

The UMZIMVUBU LOCAL MUNICIPALITY recognizes the serious nature of HIV AND AIDS and STI's, and commits itself to managing HIV AND AIDS in the working environment in order to:

- 2.1 Ensure the efficient and effective delivery of services, in spite of the prevalence of HIV AND AIDS within the Municipality, and
- 2.2 Minimise the impact of HIV AND AIDS within the Municipality at all levels of employment by supporting national efforts to minimise the spread of the virus.
- 2.3 Provide support for employees who are affected and/or infected by the virus.

3. PRINCIPLES

The policy is based on the following key principles:

- 3.1. Non-discrimination.
- 3.2. Safety in the workplace.
- 3.3. Prohibition of compulsory HIV and AIDS testing.
- 3.4. The encouragement of voluntary counselling and testing.
- 3.5. Confidentiality.
- 3.6. Openness, acceptance, care and support for employees living with HIV AND AIDS.

4. SCOPE OF APPLICATION

This policy shall be applicable to the following categories of people:

- 4.1 Contract and Permanent Employees
- 4.2 Casuals or temporary employees with over six months of accumulated service;
- 4.3 Councillors of the Municipality

5. NON-DISCRIMINATION

The Municipality shall:

- 5.1. Ensure that no employee or prospective employee living with HIV AND AIDS is unfairly discriminated against on the basis of his/her HIV status in any employment policy or practice.

- 5.2. Take steps to actively promote non-discrimination on the basis of HIV AND AIDS through effective communication of this policy and prevention programmes to ensure that employees living with HIV AND AIDS are protected from victimization and harassment.

6. HIV TESTING

- 6.1. No employee or prospective employee shall be required to test for HIV as a condition of employment or a pre-requisite of employment practice.
- 6.2. The Municipality shall encourage Voluntary Counselling and Testing for HIV.
- 6.3. Details of the Voluntary Counselling and Testing sites will be available to all employees.
- 6.4. The Municipality will provide and facilitate access to Voluntary Counselling and Testing Sites for employees.
- 6.5. The EAP Practitioner/ designate may provide employees with pre and post test counselling, and will adhere to the provisions of confidentiality and disclosure.
- 6.6. The test will be in accordance with the Department of Health's guidelines on testing for HIV, issued in terms of the National Policy for Health Act, 1990 (Act No. 116 of 1990).

7. CONFIDENTIALITY AND DISCLOSURE

- 7.1. The Municipality will ensure that an employee's HIV status is kept confidential, and that no employee or prospective employee shall be obliged to disclose his/her HIV status.
- 7.2. Employees can voluntarily utilise the Employee Assistance Programme for information or assistance.
- 7.3. The EAP Practitioner/ designate will ensure the maintenance of confidentiality relating to HIV status.
- 7.4. The Municipality will create an environment where openness, acceptance and support is encouraged for those employees who choose to disclose their HIV status.
 - 7.4.1 In cases of voluntary disclosure, such information will not be disclosed without the employee's written consent.

8. WORKPLACE HEALTH AND SAFETY

- 8.1. 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.
- 8.2. 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 the 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).

9. HIV AND AIDS WORKPLACE PROGRAMMES

- 9.1 The Municipality shall provide the following workplace HIV AND AIDS programmes, as part of its broader wellness programmes for all employees.
 - 9.1.1 Prevention programmes designed to prevent HIV transmission, including components such as awareness, education and training, male and female condom distribution, occupational infection control within the workplace.
 - 9.1.2 Knowledge, attitude, behaviour and perception surveys to provide an objective base for the design, development and monitoring of information, prevention programmes and to assess the needs of the Municipality.
 - 9.1.3 Wellness programmes designed to promote physical and mental health, as well as the well being of employees, including components such as counselling and nutritional supplements assistance.
 - 9.1.4 Establishment of peer education programmes with ongoing coaching and mentorship, material and motivational support for peer educators.
 - 9.1.5 Voluntary Counselling and Testing.

10. ROLES AND RESPONSIBILITIES

- 10.1 The Municipal Manager shall in terms of his/her performance agreement, be accountable for the implementation of the provisions of this policy and programmes aimed at fulfilling objectives of this policy.
- 10.2 Senior Managers shall in terms of their performance agreements ensure adherence to the provisions of the policy.
 - 10.2.1 Managers must provide an enabling environment with open communication channels concerning HIV AND AIDS and STIs.

- 10.2.2 It will be expected that managers attend the activities relating to HIV AND AIDS programmes.
- 10.2.3 All managers must attend a training session on the managing of HIV AND AIDS in the workplace.
- 10.3 The function of the EAP Advisory Committee will be to:
 - 10.3.1 Assist with the policy and strategy formulation.
 - 10.3.2 Educate (informal and formal training) and inform employees within their Departments on the EAP and HIV AND AIDS related issues.
 - 10.3.3 Assist with the implementation and maintenance of EAP programmes i.e. awareness, prevention and support programmes.
 - 10.3.4 Attend workshops and sessions aimed at improving knowledge and experience, and educate the employees in the Departments.
 - 10.3.5 Refer affected and infected employees to the Employee Assistance Programme.
 - 10.3.6 Facilitate an enabling environment, with open communication channels concerning HIV AND AIDS.
 - 10.3.7 Assist with the conducting of surveys on attitudes/perceptions in order to identify particular needs of employees within their Departments.
 - 10.3.8 Attend and report at the EAP Advisory Committee meetings about activities within their Departments.
- 10.4 Employees are required to:
 - 10.4.1 Familiarise themselves with, and comply with the provisions of the HIV AND AIDS policy.
 - 10.4.2 Respect the rights of other employees at all times.
 - 10.4.3 Have no prejudicial or discriminatory attitudes or behaviour towards people living with HIV AND AIDS.
 - 10.4.4 Work with the parties to raise awareness and increase skills for HIV AND AIDS prevention and management and reduce myths and misconceptions.
 - 10.4.5 Minimise their risk of HIV AND AIDS infection and transmission by taking appropriate precautions.
- 10.5 The EAP Practitioner/ designate will:
 - 10.5.1 Facilitate the referral of employees infected/affected by HIV AND AIDS in support of organisations or service providers.
 - 10.5.2 Identify appropriate service providers who specialize in HIV AND AIDS related counselling and treatment.
 - 10.5.3 Manage the provision of Immune Boosting Supplements, if there are any to be provided.
 - 10.5.4 Undertake to provide managers, supervisors, peer educators and union representatives with appropriate information and training.
 - 10.5.5 Undertake to provide current information to employees regarding HIV AND AIDS, including information on transmission, prevention, risk reduction, testing resources, workplace rights and responsibilities.

11. LEGAL FRAMEWORK

This policy is governed by the following legislation:

- 11.1. The Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)
- 11.2. The Labour Relations, 1995 (Act No. 66 of 1995)
- 11.3. Basic Conditions of Employment, 1997 (Act No. 75 of 1997)
- 11.4. Compensation of Occupational, Injuries and Disease, 1993 (Act No. 130 of 1993)
- 11.5. Employment Equity Act, 1998 (Act No. 55 of 1998)
- 11.6. Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)

- 11.7. National Policy on testing as Gazetted by the Minister of Health, Gazette No. 20710
- 11.8. The Code of Good Practice on Key Aspects of HIV AND AIDS and Employment
- 11.9. Charter of Rights on AIDS and HIV
- 11.10. National Patients Rights
- 11.11. Responsibilities of the patient

12. EMPLOYEE COUNSELLING

- 12.1 The Municipality will provide employees who are infected and/or affected by HIV AND AIDS access to confidential counselling and assistance.
- 12.2 The provisions of the Employee Assistance Programme Policy will be adhered to with regard to counselling services.

13. MANAGEMENT OF INFECTED EMPLOYEES

- 13.1 An employee must have had a rapid test to confirm that he/she is HIV positive.
- 13.2 Employees who do not know their status can be referred to one of the Provincial Testing Sites to have the test done.
- 13.3 Employees must furnish their informed consent to have the test.

- 13.4 An employee must voluntarily disclose his/her positive status to the Employee Assistance Programme officer/designate in order to qualify for the assistance.
- 13.5 Employees will only be tested if they give their informed consent to have their CD4 Count and Viral Load tested and employees must have received verbal pre and post test counselling.
- 13.6 Medical Aid Members:
 - 13.6.1 Will bear the cost of the CD4 Count and Viral Load tests.
 - 13.6.2 The Municipality will provide the employee with assistance once the employee has consulted with his/her medical practitioner regarding the suitability thereof.
 - 13.6.3 The employee will have to furnish the said results to the Employee Assistance officer/designate, who will discuss the results with the appointed service provider if there is any, who will make the correct recommendations about treatment.
 - 13.6.4 An employee's medical practitioner can consult with the service provider for professional advice regarding the assistance provided.
 - 13.6.5 In the event that the Medical Aid does not cover the cost of the blood tests, written proof of this must be furnished to the EAP Practitioner/designate before consideration by the Municipality.
- 13.7 Non Medical Aid Members will be referred to the EAP Practitioner assistance for a maximum of four (4) CD4 Count and Viral Load tests per annum
- 13.8 The Municipality will afford employees access to the Provincial Health Department Sites for antiretroviral medication should they require.
- 13.9 The Municipality does not guarantee that assistance will improve an employee's health.
- 13.10 The complimentary assistance must not be regarded as a substitute for anti-retroviral treatment, other medication or as a consultation with an employee's doctor/counsellor.
- 13.11 Employees must not share the assistance with others who may require the same.
- 13.12 The Municipality will not provide material assistance in respect of sexually transmitted infections or other illnesses.
- 13.13 Employees wishing to discontinue the programme must do so in writing to the Employee Assistance officer/designate.
- 13.14 The supply of the assistance will stop once the employee exits service from the Municipality.
- 13.15 If an employee is absent from duty as a result of illness for a continuous period of more than 6 months and the full recovery of the employee is questionable

according to the medical reports, the Manager: Corporate Services arranges either for the appointment of a Medical Council in accordance with the statute of the Pension Fund / Provident Fund with a view to institute retirement owing to lasting medical disability of the employee concerned, or that sick leave be granted for at most two further periods of not more than three months each, following which a Medical Council shall be appointed on condition that, if the physician is of the opinion at an early stage that the employee is going to remain medically unfit permanently, the matter shall be referred (without delay) to the relevant Pension / Provident Fund.

For those employees who are not enjoying any benefits of pension / provident Fund, the Municipality will assist the employee in obtaining Social Security benefits from the Department of Social Welfare. The employee will enjoy the benefits of employment from the municipality until he / she receives the social grant.

14. SICK LEAVE

14.1 The normal sick leave provisions are applicable to an HIV positive employee.

14.2 Sick leave for HIV related illnesses will be treated no differently from other comparable chronic or life threatening conditions.

14.3 Where an employee is too ill to perform his/her current work the Municipal procedure regarding incapacity will be adhered to.

14.4 The Manager/Supervisor concerned will examine opportunities to reasonably accommodate such employees, in an endeavour to keep them economically active for as long as they are medically fit.

14.5 Persons dealing with an incapacity procedure will maintain the employee's right to confidentiality.

15. MONITORING AND EVALUATION

15.1 The monitoring and evaluation and review of HIV AND AIDS programmes in the Municipality are ongoing activities.

15.2 The EAP Practitioner/ designate will undertake to research, monitor, evaluate and review such programmes to develop best practices.

15.3 This process will be undertaken without discrimination against any employee because of their HIV status.

16. COMMENCEMENT OF THIS POLICY

16.1 This policy will come into effect on the date of adoption by Council.

17. INTERPRETATION OF THIS POLICY

- 17.1 All words contained in this policy shall have an ordinary meaning attached thereto, unless the definition or context indicates otherwise.
- 17.2 Any dispute on interpretation of this policy shall be declared in writing by any party concerned.
- 17.3 The Office of the Municipal Manager shall give a final interpretation of this policy in case of a written dispute.
- 17.4 If the party concerned is not satisfied with the interpretation, a dispute may then be pursued with the South African Local Government Bargaining Council/ or Arbitration

18. PERMANENT/TEMPORARY WAIVER OR SUSPENSION OF THIS POLICY

- 18.1 This policy may be partly or wholly waived or suspended by the Municipal Council on a temporary or permanent basis after consultation with Management and Trade Unions.
- 18.2 Notwithstanding clause No. 18.1 the Municipal Manager may under circumstances of emergency temporarily waive or suspend this policy subject to reporting of such waiver or suspension to Council and Trade Unions.

19. AMENDMENT AND/OR ABOLITION OF THIS POLICY

- 19.1 This policy may be amended or repealed by the Council after consultation with Management and Trade Unions.

20. COMPLIANCE AND ENFORCEMENT OF THIS POLICY

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