

BAVIAANS MUNICIPALITYEMPLOYMENT POLICY FOR HIV / AIDS1. INTRODUCTION

It is necessary for the municipality to implement a policy in order to:

- provide for the fair and non-discriminatory treatment of employees and applicants for employment with HIV / AIDS
- provide a means of educating employees and management in order to prevent unfair discrimination and a harmonious labour force
- prevent unfair labour practices and any labour unrest
- minimise the physical, psychological, social and financial implications of AIDS for employees and their families

2. RECRUITMENT AND SELECTION OF NEW EMPLOYEES

In terms of this policy, the Council undertakes not to:

- deny employment to any prospective employee on the grounds that the employee is HIV positive ( should this information be voluntarily given ) provided that the employee is medically fit enough to undertake the work
- require any prospective employee to undertake an HIV test or to victimise any applicant for employment who refuses to take such a test
- deny any employee the right to join any of Council's approved medical aid schemes on the basis of their HIV status ( if this information is voluntarily given )
- disclose any information to any other parties on the HIV / AIDS status of any applicant who voluntarily provides this information to a Council employee.

3. DEALING WITH HIV / AIDS : EXISTING EMPLOYEES

- 3.1 All employees, irrespective of their HIV / AIDS status, have the same rights, duties and obligations
  - 3.2 Testing for HIV, with informed consent ( as required by the Health Professions Council ) and pre-test as well as post-test counselling, will be offered to any employee who feels he may be at risk.
  - 3.3 No employee will be required to divulge their HIV status and the HIV status of all employees will be regarded as confidential.
  - 3.4 No information must be recorded on the employee's medical or personnel records to indicate their HIV status.
  - 3.5 Any employee to whom an HIV positive person discloses their HIV status, may not disclose such information to any other party without the HIV status employee's written consent.
  - 3.6 Managers are required to ensure that all steps are taken to ensure that no employee or member of the public is placed at risk if an HIV positive employee is working in a high risk work environment. The status of the infected employee should not be disclosed without the employee's informed consent.
  - 3.7 All employees known to have HIV / AIDS will remain in their normal employment position as far as is practicable, without endangering fellow workers. Managers must ensure a safe working environment through the promotion of universal precautions.
  - 3.8 Employees with HIV / AIDS are entitled to the same sick leave benefits as any other employee and their HIV status will not be used as a justification for refusing to perform normal duties.
  - 3.9 HIV positive employees may seek recourse in the event of discrimination, in terms of Council's grievance procedure.
  - 3.10 The reason for death of an employee, whether due to AIDS or not, does not legally have to appear on the Death Certificate and the employer therefore has no right to know whether the employee has died of an AIDS related illness.
4. PROMOTION AND TRAINING OPPORTUNITIES
- 4.1 An employee who is known to have HIV / AIDS is entitled to the same promotion and training opportunities as any other employee.
  - 4.2 No employee shall be required to take an HIV test as a pre-requisite for promotion.

5. TRANSFERS AND TERMINATION OF EMPLOYMENT

- 5.1 No employee may have his employment terminated solely on the basis of his HIV status provided that he is medically fit to continue such employment
- 5.2 Employees who become medically unfit shall be dealt with in terms of the provisions of the Labour Relations Act which deals with incapacity, each case being dealt with on its own merits.
- 5.3 The HIV status of any employee referred to in paragraph 3.1 and 3.2 above must be kept confidential

6. BENEFIT FUND MEMBERSHIP

No HIV positive employee shall be discriminated against in respect of membership and benefits of the municipality's medical aid fund, pension / retirement / provident fund, or group life assurance fund. HIV positive employees will enjoy the same benefits as other employees.

7. EMPLOYEES IN HIGH RISK POSITIONS

Employees in high risk positions such as health care workers and staff of emergency services must be provided with appropriate personal protective equipment and be trained in the management of contaminated body fluids and the safe use of injection needles.

Employees infected on duty can claim benefits in terms of the Compensation for Occupational Injuries and Diseases Act.

8. HIV / AIDS EDUCATION

Council supports the implementation of ongoing education programs for all employees so as to reduce the spread of HIV infection and to combat ignorance and discrimination. Such education shall be compulsory for all employees, including management. A copy of the attached pamphlet with answers to common questions about HIV / AIDS will be circulated to all employees during induction.

9. CONCLUSION

Council agrees that staff resources, time and funding will be made available for the full implementation of the policy across all Council services. The Local Labour Forum will be consulted in the implementation of the policy and in all matters pertaining to policy formulation and revision.

BAVIAANS MUNICIPALITY

PAMPHLET ON AIDS TO BE HANDED TO EMPLOYEES AND PROSPECTIVE EMPLOYEES

1. WHY DOES COUNCIL HAVE AN AIDS POLICY?

- 1.1 To protect employees and prospective employees from discrimination on the grounds of HIV status
- 1.2 To make provision for ongoing AIDS education for all employees including management
- 1.3 To minimise the impact of HIV / AIDS for the employee and his family
- 1.4 To ensure a safe and healthy working environment for all employees.

2. WHAT IS THE BASIS OF THE COUNCIL'S AIDS POLICY?

Council has pledged to avert discrimination against people with HIV / AIDS and to educate all employees so as to reduce the spread of HIV.

Medical evidence supports the belief that HIV / AIDS is only transmitted in the following ways:

- through sexual intercourse
- through blood and body fluids
- from mother to child

This means that AIDS cannot be spread by:

- coughing, sneezing and spitting
- toilet seats, door handles or telephones
- mosquitoes or bed bugs
- shaking hands, hugging or dry kissing

3. CAN COUNCIL ASK A JOB APPLICANT TO HAVE AN HIV TEST?

According to Council's AIDS policy, employment shall not be denied on the grounds of a job applicant's HIV status ( should this information be voluntarily given), provided that he is found medically fit for employment.

This excludes posts where HIV seropositivity is an inherent requirement.

No prospective employee shall be required to take an HIV test.

4. CAN THE COUNCIL FORCE AN EXISTING EMPLOYEE TO HAVE AN HIV TEST?

An HIV test can only be done with the written, informed consent of the employee. The Council cannot force an employee to have the test.

Testing for HIV will, however, be offered to any employee who feels he may be at risk.

5. WHAT ABOUT CONFIDENTIALITY AT WORK?

Employees and prospective employees are not obliged to tell the Council of their HIV status. Should the HIV status become known, this information would be considered confidential.

Counselling would be provided for any employee found to be HIV positive.

6. WHAT ABOUT SICK LEAVE AND BENEFITS?

An employee with HIV / AIDS is entitled to the same sick leave as any other employee.

Other benefits would be the same as for any employee with a chronic illness.

7. IS IT LEGAL TO REFUSE TO WORK WITH A FELLOW EMPLOYEE WITH HIV / AIDS?

No, since HIV cannot be spread through contact at work, such refusal would be a breach of contract by the employee.

8. IS IT LEGAL TO TERMINATE THE SERVICES OF AN EMPLOYEE BASED SOLELY ON HIS HIV STATUS?

All terminations must be deemed fair in terms of the Labour Relations Act ( No 95 of 1995 ) and subsequent amendments thereto.

9. WILL EMPLOYEES BE COMPENSATED SHOULD THEY BE INFECTED AT WORK, AS DEFINED BY THE OCCUPATIONAL INJURIES AND DISEASES ACT ( 1993 ) AS AMENDED?

Only those employees who come into contact with blood or body fluids through their work are at risk of exposure to HIV.

Such employees are provided with protection against body fluids and would be compensated if it is proven that they contracted the virus at work.

10. WHAT DOES THE COUNCIL DO TO ASSIST IN THE AIDS AWARENESS PROGRAM

Council has agreed that all employees and prospective employees will be exposed to ongoing AIDS education in the workplace.