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Department : Public Safety
North West Provincial Government
REPUBLIC OF SOUTH AFRICA

HIV AND AIDS POLICY

***"Managing HIV/AIDS in the
Workplace"***

**NORTHWEST PROVINCIAL GOVERNMENT:
DEPARTMENT OF PUBLIC SAFETY
HUMAN RESOURCES POLICY**

POLICY NO: HR2009/003
NAME OF POLICY: MANAGING HIV AND AIDS IN THE WORKPLACE
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PREAMBLE

The Department of Public Safety in the North West Provincial Government (the Department), in line with its constitutional and legal obligations:

RECOGNISES the human rights and dignity of each individual, as enshrined in the South African Constitution;

ALIGNS itself with government's International and national commitments on combating HIV and AIDS while caring for employees that are affected;

ACKNOWLEDGES the seriousness of the HIV and AIDS epidemic and that if not managed, it can have a devastating impact on the workplace and broader society;

BELIEVES that it has a responsibility as a state entity and as an employer to manage and minimise the impact of HIV/AIDS among its employees and served communities with a view to protecting human rights, preventing a further spread of HIV and AIDS ensuring that its impact on human potential and productivity is minimised;

FURTHER BELIEVES that there is a compelling need for protecting the human rights of and taking care of all affected employees by enforcing values, norms and principles that will engender a better understanding of HIV and AIDS and effective management thereof in the workplace;

IS CONVINCED that a people's contract against HIV/AIDS is the most sound on the basis of collective action against the scourge of HIV/AIDS;

PLEDGES to do everything in its power to contribute to the prevention of HIV/AIDS and minimising its impact on employees of the Department and to the extent, possible, communities served by the Department;

COMMITTS itself to providing resources, guidance and monitoring support to a departmental HIV/AIDS programme;

COMMITTS itself to the creation of a supportive non-discriminatory working environment that eliminates stereotyping and enables affected employees to perform their duties and develop to their full potential;

CALLS UPON all Infected and affected by HIV/ AIDS to break the silence; and

CALLS UPON all employees to join hands and take part in all HIV/AIDS related programmes and to commit to non-discrimination, prevention and a stigma free environment.

1. ABBREVIATIONS AND DEFINITIONS

AIDS:	Acquired Immuno Deficiency Syndrome.
CCMA:	Council for Conciliation, Mediation and Arbitration.
EAP:	Employee Assistance Programme.
EEP:	Employment Equity Plan.
HIV:	Human Immunodeficiency Virus.
HOD:	Head of Department.
ILO:	International Labour Organization.
LRO:	Labour Relations Office.
MTSF:	Medium Term Strategic Framework.
PILIR:	Procedure on Incapacity Leave and Ill Health Retirement
SADC:	Southern African Development Community.
STI's:	Sexually Transmitted Infections.
WSP:	Workplace Skills Plan.
Department:	Department of Public Safety, North West.
Employee:	An employee includes all employees of the Department employed in terms of the Public Service Act of 1994, the Basic Conditions of Employment Act of 1998, as amended and includes contract workers, interns, volunteers and prospective employees.
HIV Testing:	Any form of testing designed to identify the HIV/AIDS status of a person, including blood tests, saliva tests or medical questionnaires.
Unfair Discrimination:	Unfair discrimination in employment occurs when an employee is unfairly accorded less favourable treatment with regard to employment opportunities or benefits on the basis of one or more grounds that are prohibited by law. HIV status (real or perceived) is an example of such prohibited ground. Unfair discrimination may be direct (specific) or indirect (discriminatory impact).
Wellness Programme:	A programme designed to promote the physical, psycho-social and mental health as well as the well-being of employees and includes components such as counselling support groups, nutritional supplements, provision of treatment for opportunistic infections, provision of antiretroviral therapy and other therapy that will be available.
Informed Consent:	Means that the individual has been provided with information, understands it, and based on this he or she has agreed to undertake an HIV test. It implies that the individual understands what the test is, why it is necessary, the benefits and the risks thereof, or alternatively any social implications of the outcome thereof.
Surveillance:	Means the conduct of anonymous HIV testing to gather information to inform a workplace HIV/AIDS response provided that such testing complies with ethical legal principles and facilitates a workplace impact assessment.

2. PURPOSE AND OBJECTIVES

- 2.1. The purpose of this policy is to provide guidance on managing departmental responses to HIV/AIDS in a manner that complies with the Constitution and applicable laws, eliminates unfair discrimination and enables the harnessing of each person's full potential.
- 2.2 The objectives include to:
- (a) Clarify and balance employee rights and responsibilities with regard to the management of HIV/AIDS;
 - (b) Prohibit and prevent unfair discrimination on the ground of HIV/AIDS in the workplace environment;
 - (c) Promote a better understanding of the risk and dynamics of HIV/AIDS in the workplace and entrench attitudes and behaviour that are proactive and responsible;
 - (d) Promote consistency in dealing with the issues of HIV and AIDS and HIV/AIDS education in the workplace;
 - (e) Support affected employees and enhance the health of employees that are HIV positive;
 - (f) Provide for treatment, care and support for employees;
 - (g) Maximise workplace stability and minimise the impact of HIV/AIDS in the Department as a workplace;
 - (h) Elaborate a departmental programme for the prevention and management of HIV/AIDS while empowering those that are affected and infected to cope effectively and maintain optimal productivity;
 - (i) Reduce fear, over reaction and stigmatisation among employees;
 - (j) Promote openness while maintaining the confidentiality, dignity, and rights of employees who are infected and affected by HIV/AIDS;
 - (k) Provide mechanisms for regulating and managing grievances that may arise due to unfair discrimination based on HIV/AIDS;
 - (l) Regulate dismissals in appropriate circumstance; and
 - (m) Implement and comply with the provisions of the National HIV/AIDS Strategy.

3. PRINCIPLES

The principles that underpin this policy and which should inform its implementation, include the following:

- 3.1 The protection of the human rights and dignity of people living with HIV/AIDS is essential to the prevention and control of HIV/AIDS;
- 3.2 The creation of a supportive environment can contribute to HIV/AIDS prevention and contain the impact, which includes enabling those that are infected and affected to remain productive for longer periods;
- 3.3 HIV/AIDS status should not constitute a reason for denial of any employment opportunity;
- 3.4 Confidentiality on HIV/AIDS shall be maintained at all times;
- 3.5 Consultation and inclusiveness are to be maintained at all times to ensure that all stakeholders, including unions play an active role in the prevention and management of HIV/AIDS; and
- 3.6 HIV/AIDS impacts disproportionately on women and this should be factored into the Department's HIV/AIDS programme.

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4. LEGISLATIVE FRAMEWORK

4.1 The principles that govern the management of HIV/AIDS emanate from international and national laws, policies and codes of good practice.

4.2 International standards that influence and regulate HIV/AIDS management include the following:

- (a) The ILO Code of Practice on HIV/AIDS and the World of Work (2001);
- (b) The SADC Code of Good Practice on HIV/AIDS and Employment(1997); and
- (c) HIV and AIDS and Human Rights International Guidelines (United Nations 1998)

4.3 South African laws and policy frameworks that underpin the policy include the following:

- (a) The Constitution of the Republic of South Africa;
- (b) Employment Equity Act,1998;
- (c) Promotion of Equality and Prevention of Unfair Discrimination Act, 2000;
- (d) Public Service Act, 1994;
- (e) Labour Relations Act, 1995;
- (f) Occupational Health & Safety Act, 1993;
- (g) Compensation for Occupational Injuries and Diseases Act, 1993;
- (h) Basic Conditions of Employment Act, 1997;
- (i) Public Service Regulations, 2001;
- (j) National Policy Health Act, 1990
- (k) PSCBC Resolution 1 of 2007
- (l) PSCBC Resolution 8 of 2001 and other relevant PSCBC Resolutions;
- (m) National HIV/AIDS Strategy , 2000-2005
- (n) HIV/AIDS and STI strategic Plan for South Africa , 2007-2011;
- (o) Code of Good Practice on Key Aspects of HIV/AIDS and Employment; and
- (p) Technical Assistance Guidelines on Key Aspects of HIV/AIDS and Employment.

5. SCOPE OF APPLICATION

This policy is applicable to all the employees of the department.

6. POLICY STATEMENT

6.1 The Department values all its employees and believes that all employees, including those that are infected or affected by HIV/AIDS can remain productive and contribute to effective service delivery if supported, treated with dignity and managed effectively.

6.2 Accordingly:

- (a) Unfair discrimination on the ground of HIV/AIDS is prohibited;
- (b) Pre-employment testing for HIV/AIDS is prohibited except where such is an inherent requirement of the job and sanctioned by law;
- (c) All employees and prospective employees have a right to confidentiality with regard to HIV/AIDS status;
- (d) Openness about HIV/AIDS status shall be encouraged but disclosure of one's HIV/AIDS status shall be a voluntary decision for each Infected person;
- (e) Breach of confidentiality through the disclosure of another's HIV/AIDS status without their consent shall be subject to disciplinary action, which may culminate in dismissal;

- (f) HIV/AIDS infected and affected persons have the right to equality as well as fair and consistent treatment with regard to recruitment, selection, development, promotion, retention and other employment practices;
- (g) It is the responsibility of every employee to comply with this policy;
- (h) All managers have a responsibility to create an affirming non-discriminatory environment and to ensure policy implementation and compliance within their area of responsibility;
- (i) The procedures outlined in this policy and ancillary documents will be followed to deal with absenteeism, dismissals and other disciplinary or grievance matters arising from HIV/AIDS; and
- (j) The Department's EAP programmes shall be adjusted with a view to improving responsiveness to HIV/AIDS related wellness challenges.

7. HUMAN RESOURCES PRACTICES AND PROCESSES

7.1 General Statement

- (a) All human resources processes and practices should promote an affirming non-discriminatory environment that fosters respect for the dignity of all while ensuring the maximum productivity of each employee regardless of HIV/AIDS status.
- (b) This will be done through a regular review of all human resources practices and processes to eliminate existing or potential direct and indirect discrimination on the ground of HIV/AIDS.

7.2 Recruitment and Selection

- (a) A prospective employee will not be required to disclose his or her HIV/AIDS status, except in accordance with the provisions of section 7(2) of the Employment Equity Act.
- (b) There shall be no pre-employment HIV/AIDS testing in respect of a prospective employee except in accordance with section 7(2) of the Employment Equity Act.
- (c) Permanent and contract employees are not obliged to disclose their HIV/AIDS status;

7.3 Creating an Affirming and Non-discriminatory Environment

- (a) The HIV/AIDS status of an employee shall not be used to discriminate against the employee with regard to promotion, training and development;
- (b) The HIV/AIDS status of an employee shall not be used to discriminate against the employee or exclude him or her from participating in any departmental activities, except where participation has been contra-indicated by a suitably qualified health practitioner or authority; and
- (c) Refusal by other employees to work with an employee who is HIV positive or any isolation of such person, shall be regarded as unfair discrimination, which act shall be subject to disciplinary proceedings and may be punishable in terms of the code of good practice or code of conduct in the Public Service and HIV/AIDS Workplace Policy.

7.4 Retention and Reasonable Accommodation

- (a) No employee shall be unfairly dismissed or have his or her employment terminated based solely on his or her HIV/AIDS status;
- (b) Employment terms and conditions shall be adjusted or suitable alternative employment sought for an employee who is incapacitated to perform his or her normal duties due to chronic conditions related to HIV/AIDS, and has voluntarily disclosed to the employer;
- (c) Relevant policy decisions will be applied, such as restructuring of a job or a reduction of responsibilities that may be necessitated by chronic illness;

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- (d) Facilities shall be adapted to enhance accessibility, ensure support and create a conducive work environment;
- (e) Termination of service due to ill-health for HIV/AIDS ailments shall be applied in accordance with applicable legislative prescripts when and where necessary;
- (f) HIV positive status shall not be used by the department as a selection criteria for termination of employment; and
- (g) It is the responsibility of each employee who requires reasonable accommodation on account of his or her HIV and AIDS status to confidentially disclose such status and needs to his/her superiors.

7.5 Leave of Absence

- (a) Subject to public service regulations regarding incapacity leave, existing leave of absence policy and procedures shall apply to all employees without discrimination.
- (b) Management may grant leave of absence, time off or reduce the working hours of an employee infected or affected by HIV/AIDS, subject to consistent application of leave rights and privileges.

7.6 Record Management

- (a) Information on the HIV/AIDS status of an employee shall not be kept on any record of the Department (Except the confidential EAP referral and counselling file).
- (b) All records of a grievance procedure emanating from a breach of rights will be integrated in the existing grievance procedures. Such records will be kept confidentially; and
- (c) The grievance proceedings will be held in private i.e. (secluded hearing) so declared by the HOD at the request of the affected and infected person(s) to ensure the utmost confidentiality of the complainant during the proceedings.

8. COUNSELING AND WELLNESS MANAGEMENT

- 8.1 The Department will integrate procedures and resources for responding to HIV/AIDS related challenges in its EAP.
- 8.2 The Department shall arrange and provide for professional counselling and appropriate referrals to other professional institutions when the need arises, to assist employees to function and perform effectively.
- 8.3 The Department shall establish appropriate facilities for counselling persons infected and affected by HIV/AIDS. This includes referral for nutritional supplements and treatment for infected persons, subject to available resources.
- 8.4 Pre-testing counselling for employees will be offered on a voluntary basis.
- 8.5 Access to appropriate counselling services will be offered to infected and affected employees.
- 8.6 Appropriate support will be given to persons living with HIV/AIDS; and
- 8.7 The Department shall establish and maintain an accessible counselling and employee wellness management centre for all employees.

9. INFORMATION SHARING AND PROMOTION OF HIV/AIDS AWARENESS

9.1 Information Sharing

- (a) Information on the prevention of the spread of HIV/AIDS will be provided to employees;
- (b) The information will include the creation of a help desk in the districts and the Department shall use all forms of communication available, to inform all about appropriate steps to take when confronted with any problem that may require nearby care centres and whoever that can provide help including EAP programmes; and
- (c) The information dissemination responsibility will be principally shouldered by the EAP.

9.2 Promoting HIV/AIDS Awareness

The Department will:

- (a) Participate in the promotion of HIV/AIDS awareness and sexually transmitted Infections(STIs) amongst employees and their nearest communities;
- (b) Ensure a better understanding of HIV/AIDS in the workplace through information, education (gender, WSP, and other sensitivity programmes) and communication;
- (c) Explore the best ways of minimising the socio-economic and developmental impact of HIV/AIDS on employees and their next of kin;
- (d) Establish educational and awareness programmes that deals comprehensively with health and safety;
- (e) Establish and maintain an active Integrated Employee Health Wellness Committee, which must distribute promotional materials such as condoms, information leaflets, etc at all times for all HIV/AIDS programmes;
- (f) Continue to support research on how best the health and safety of employees can be improved;
- (g) Liaise with relevant Institutions within the public service and beyond, including professionals, to access relevant information, support and resources; and
- (h) Promote the practice of occupational safety and hygiene in the workplace for the protection of all employees and customers and prevention of diseases.

10. CONFIDENTIALITY AND DISCLOSURE

- 10.1 All persons living with HIV/AIDS have the legal right to privacy. An employee is therefore not legally required to disclose his or her HIV status to their employer or other employees.
- 10.2 Where an employee chooses to voluntarily disclose his or her HIV/AIDS status to the employer or to other employees, this information may not be disclosed to others without the employee's express written consent. Where written consent is not possible, steps must be taken to confirm that the employee wishes to disclose his or her status; and
- 10.3 All the testing should be conducted in accordance with the Department of Health's National Policy on Testing for HIV, issued in terms of National Policy Health Act.

11. CONTROLLED TESTING FOR IMPACT MANAGEMENT

11.1 HIV/AIDS Testing Conditions

- (a) The HOD shall ensure that no employee is required to take an HIV/AIDS test contrary to the Constitution of the country and the employment laws respectively; and
- (b) Where informed consent is obtained for testing, (subject to relevant law) pre-and post counselling should be provided and confidentiality maintained.

11.2 Unlinked Anonymous Testing and Data Management

- (a) Unlinked anonymous testing for surveillance purposes is permissible subject to informed consent of participants with no personal identification and coding of specimens; and
- (b) It is the responsibility of those collecting specimens to protect participants from unauthorised disclosure.

12. RESPONSIBILITIES AND OBLIGATIONS

12.1. Head of Department (HOD)

In terms of the Public Service Regulations, 2001 (Part VI E), Minimum Standards on HIV/AIDS contain mandatory guidelines for Heads of Department on minimum requirements for managing HIV/AIDS within government. The following principles are to be upheld by Heads of Departments:

- (a) The working environment takes account of the personal circumstances of employees living with HIV/AIDS;
- (b) Steps are taken to identify and reduce the risk of HIV transmission in the working environment;
- (c) Steps are taken to manage occupational exposure to HIV/AIDS;
- (d) Measures are taken to prohibit unfair discrimination and promote non-discrimination on the basis of HIV status or AIDS;
- (e) Compulsory HIV/AIDS testing of a public servant is prohibited;
- (f) Voluntary counselling and testing for HIV is encouraged;
- (g) The confidentiality of HIV status is maintained;
- (h) Health promotion programmes are to be introduced to deal with prevention, care and acceptance of HIV/AIDS; and
- (i) Support for HIV/AIDS policies and programmes is established through allocating responsibilities, human and financial resources, structures and communication strategies.

12.2 All Managers

All managers have the responsibility to provide support to employees that are affected or infected by HIV/AIDS, prevent unfair discrimination on the ground of HIV/AIDS status, and to implement measures to minimise the impact of HIV/AIDS on productivity and service delivery.

12.3. Employee Assistance Programme (EAP)

- (a) The EAP practitioner will assist in monitoring of voluntary counselling, general support of HIV/AIDS related matters at the workplace and promotion of wellness. EAP is there to facilitate counselling and promote wellness programmes and support committees in a work setting.
- (b) External professionals, internal trainers or lecturers and other colleagues will assist in facilitating all HIV/AIDS training programmes and other interventions on HIV/AIDS matters at the workplace.
- (c) The EAP practitioner shall perform the function of HIV/AIDS Coordinator as stipulated in the DPSA guidelines.

12.4 Role of Trade Unions

- (a) The PSCBC Resolution 8 of 2001, contains a Statement of Intent on an HIV and AIDS policy and training framework, within which the employer and public service employees who are members of various Trade Unions, that are parties to the signed resolution, are to support and mobilise social partners to implement and enforce HIV and AIDS policies and programmes at the workplace.
- (b) Envisaged programme elements include:
 - i. Promotion of programmes on awareness/prevention of HIV/AIDS at the workplace;
 - ii. Assisting with awareness of HIV/AIDS policy at the workplace; and
 - iii. Assist in wellness programmes and training for HIV/AIDS infected and affected members.

12.5 External Social Partners

- (a) It is imperative to join in partnership with key non-governmental agencies, private sector, religious groups and professionals in order to share information and expertise on HIV/ AIDS, regarding the unfair discrimination and stigmatisation intended to defeat the spread of HIV/AIDS. The Department will rely on the joint forces as employers, youth women and men, as business people, religious organisations, as parents, teacher student's workers, unemployed, sports organizations, Universities, trade unions, Health professionals and other members of different sectors; and
- (b) The Department will endeavour to uphold the spirit of partnership on a continuous basis to strive for a better and healthy workplace.

13. MANAGING HIV/AIDS IN THE WORKPLACE

13.1 Strategic Overview

The Department is convinced that effective management of HIV/AIDS in the workplace requires an integrated strategy that incorporates the following elements:-

- (a) An understanding and assessment of the impact of HIV/AIDS in the work place;
- (b) Long and short term measures that deal with and reduce this impact including:
 - i. An HIV/AIDS policy for the workplace;
 - ii. A prevention programme, treatment, care ; and
 - iv. A management strategy to deal with the direct and indirect costs of HIV/AIDS.

13.2 Budgetary Implications

The Department commits itself to avail a percentage of its overall budget for HIV/AIDS management programmes, and this will be adjusted annually or according to MTSF to ensure a workplace that is responsive to its HIV/AIDS challenges.

13.3 Impact and Action

- (a) The Impact and Action Reports released since 2000, identified areas of shortcomings and the possible improvement in Departmental HIV/AIDS education programmes. These include a condom distribution strategy, records of distributed condoms, and targeting groups.

- (b) In pursuit of the above, the Department commits itself to:-
- i. Establish an HIV/AIDS Committee together with a Help Desk which will be responsible for all aspects of the workplace response through an appointed focal person;
 - ii. Collect and analyse data to inform the integrated human resource strategic planning;
 - iii. Regularly apply monitoring systems for compliance with labour and other relevant forms of legislation;
 - iv. Demonstrate leadership and management commitment for the workplace HIV/AIDS response; and
 - v. Develop, manage and evaluate HIV/AIDS prevention and awareness programmes and events

14. DISPUTE RESOLUTION

14.1 General Statement

- (a) HIV/AIDS disputes whether of a grievance or disciplinary nature will be handled with utmost confidentiality, compassion, and professionalism within the framework of dispute resolution mechanism as outlined in the Labour Relations Act, Public Service Act and Public Service Resolutions.
- (b) All HIV/AIDS disputes will be dealt with expeditiously and with due regard to fairness (procedural and substantive) and human dignity.
- (c) Any HIV/AIDS related grievance will be attended to respectively and confidentially, in the shortest possible time and in accordance with the timeframes stipulated in 14.3 below.

14.2 Disciplinary Action

- (a) The Department reserves the right to take disciplinary action, in accordance with the Labour Relations Act (as amended) and Resolution 2 of 1999 as amended by Resolution 1 of 2003, against any person who violates any provision of this policy.
- (b) The procedure to be followed in dealing with HIV/AIDS violations will be guided by Resolution 1 of 2003 (*Disciplinary Code and Procedures for the Public Service (DCP)*).
- (c) Sanctions may range from requiring an apology, being ordered to undergo appropriate training, losing merit points and warnings to sanctions such as suspension, demotion and dismissal for gross violations.
- (d) Disciplinary action against a person affected or infected by HIV/AIDS will follow normal procedures as outlined in resolution 1 of 2003.
- (e) If the matter turns out to be an incapacity situation, schedule 8 of the Labour Relations Act and the Incapacity procedures set out in the Incapacity and Ill-health policy and PILLAR, will apply.

14.3 Grievance Procedures

(a) Informal Resolution by Manager or Immediate Supervisor

- i. An employee who feels that his or her rights relating to HIV/AIDS have been violated may approach his or her manager or immediate supervisor for a resolution
- ii. If the employee is not satisfied with the outcome, she may report the matter to the next level of authority or the HOD.

(b) Mediation

- i. As a general principle, any dispute arising from the interpretation and implementation of this policy shall be dealt with by a mediator appointed by the HOD with the consent of the parties.
- ii. If the mediation fails, then the HOD shall further attempt to mediate in his/her capacity.
- iii. Should all attempts at mediation fail, an employee may approach the relevant Bargaining Council or the Commission for Conciliation, Mediation and Arbitration.
- iv. Mediation requires the consent of both parties and suspends the complaint procedure for up to thirty (30) working days, which can be extended, at the discretion of the LRO with the consent of all parties.

(c) Formal Grievance Procedure.

- i. Any employee who has a grievance relating to HIV/AIDS (which could not be resolved informally) should file a grievance with their manager or immediate supervisor or the LRO within a reasonable time of the occurrence of the conduct which gave rise to the complaint;
- ii. A manager or supervisor who receives complaint must refer the complaint and submit the complaint form to the LRO within twenty-four (24) hours of receipt of such complaint;
- iii. The manager or supervisor is not allowed to conduct investigations, consult with either of the parties, consult with witnesses, make copies of the complaint form or deal with the complaint in any manner apart from merely referring it and may not discuss the complaint with anybody except the LRO and the HOD;
- iv. The manager or supervisor may immediately, even before submitting such a complaint to the LRO, refer the complainant to the EAP Unit, provided that this is done in consultation with the complainant and only if the complainant consents to such a referral;
- v. The manager must treat the complaint with strict confidence and with respect for their dignity and privacy;
- iv. Any Manager or supervisor or LRO who fails to comply with any of the conditions as set out in paragraph (i)-(iv) above shall be disciplined;
- vi. The LRO must inform the person against whom such a complaint has been lodged, of the complaint against him or her, within three (3) working days upon receipt of such complaint. The person accused of an HIV/AIDS violation must be given an opportunity to respond to the allegations in writing within three (3) working days upon being informed of the complaint. If such a person fails to respond to the allegations within the prescribed period, the LRO may assume that such a person waives his or her right to respond to the allegations.

(d) Investigation of Complaints

- i. An investigation to establish whether there is sufficient evidence to conclude that the violation of this policy has taken place, must ensue under the offices of the LRO and with the sanction of the HOD.
- ii. The LRO (in conjunction with any such person or persons who might be appointed by the LRO expeditiously and with due regard to fairness, administrative justice and confidentiality.

(e) Decisions relating to complaint

- i. The LRO must recommend appropriate recourse, which may include directing that disciplinary action be taken. In making this decision cognisance must be taken of the report of the Investigation officer.
- ii. The LRO may decide, with the concurrence of the HOD, to dismiss the complaint or may recommend recourse or formal disciplinary action.

(f) Reporting of complaints

The LRO must compile a report of any complaint involving HIV/AIDS and its results within five (5) working days of finalization of the complaint. The outcome of the complaint, including any possible recourse and sanctions, should be placed in relevant personnel files.

(g) Dissatisfaction with the outcome of the investigation

If the complainant is dissatisfied with the outcome of the handling of his or her grievance she may, within thirty (30) days of the outcome being made known to him or her, refer the matter to the Bargaining Council or the Equality Court depending on their employee status as envisaged in the Labour Relations Act.

15 MONITORING, EVALUATION AND REVIEW

- 15.1 An Integrated Employee Health and Wellness Committee will monitor, evaluate and advise on the implementation of the HIV/AIDS policy;
- 15.2 The Integrated Employee Health and Wellness Committee will be coordinated by an HIV/AIDS Coordinator who is directly accountable to the Human Resources head and shall comprise all key departmental stakeholders, including organised labour;
- 15.3 The HIV/AIDS Coordinator will be a member of the Committee; and
- 15.4 The policy shall be reviewed after every five years in the light of legal, policy and behavioural changes, and appropriate adjustments/amendments shall be ratified and communicated accordingly.

16. RELATED POLICIES

Effective implementation of this policy requires that it be read together with the Employment Equity Policy, Recruitment Policy, Performance Management Policy, Ill Health and Incapacity Policy and other Human Resources policies.

17. COMMENCEMENT OF THE POLICY

This policy shall be implemented by the Department with effect from the date of approval and signature by the HOD.


OB MONGALE
HEAD OF DEPARTMENT

Date: 21/09/2009