

HIV/AIDS AND TUBERCULOSIS POLICY

2023/2024



public works & roads

Department:
Public Works and Roads
North West Provincial Government
REPUBLIC OF SOUTH AFRICA



POLICY TITLE : HIV/AIDS AND TURBECULOSIS
DEPARTMENT : PUBLIC WORKS AND ROADS



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1. PREAMBLE

The Department acknowledges the seriousness of the HIV/AIDS pandemic and diseases related thereto as presenting a serious negative impact to the entire population of the country. The negative impact of this pandemic is on socio-economic, health, developmental and service delivery in the workplace. The Department therefore commits itself where possible to educate, through awareness campaigns, to prevent infections and deal with the serious consequences thereof where infections shall have occurred with particular emphasis on its employees, clients and affected families of its employees. It is thus imperative for the Department to set out this HIV/AIDS and Tuberculosis Management policy as a conscious commitment to the wellness of its employees and other relevant clients in the fight against the threat presented by this pandemic.

2. PURPOSE

- 2.1. To provide a policy guideline to management and staff in the Department in managing HIV/AIDS and TB in the workplace;
- 2.2. To ensure fair and equitable treatment of employees infected and affected by HIV/AIDS and TB; and
- 2.3. To protect the basic human rights of employees infected and affected by HIV/AIDS and TB.

3. SCOPE OF APPLICATION

- 3.1. The Policy is applicable to all employees, clients and visitors while within the premises of the Department. Section 6(1) of the Employment Equity Act, 55 of 1998 states that no person may be unfairly discriminated, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and/or place of birth/origin;
- 3.2. Section 187(1) of the Labour Relations Act 66 of 1995 provides that an employee with HIV/AIDS and/or TB may not be discriminated simply because of their status;



- 3.3. In accordance with Section 14 of the Constitution of the Republic of South Africa, 1996, all persons with HIV/AIDS and Tuberculosis have the right to privacy, including privacy concerning their HIV/AIDS and TB status; and
- 3.4. Accordingly, there is no general legal duty on an employee to disclose their HIV/AIDS and/or TB status to their employer or other employees.

4. ABBREVIATIONS AND DEFINITION

AIDS - acquired Immune Deficiency Syndrome;

STI - Sexually Transmitted Infection;

HIV - Human Immune Virus;

HIV TESSTING - taking medical test to determine a person's HIV status;

TB - Tuberculosis;

HIV POSITIVE - having tested positive for HIV;

EAP - Employee Assistance Programme;

EAP PROFESSIONAL - A professional trained to provide counselling, therapy, marketing and evaluation of EAP;

EMPLOYEE - a person appointed in terms of the Public Service Act, 1994; and

HCT - HIV Counselling and Testing

5. LEGAL FRAMEWORK

The legal framework for this Policy is found in the following legislative Acts:-

- a) The Constitution of the Republic of South Africa, 1996;
- b) Labour Relations Act 66 of 1995; and
- c) Employment Equity Act 55 of 1995.

6. PRINCIPLES

This Policy will adhere to the following principles:-

- a) Implemented in consultation with employees;
- b) Employees living with HIV/AIDS and TB have the same rights and privileges as all other employees;
- c) Employees living with HIV/AIDS and TB shall be protected from discrimination;
- d) HIV/AIDS and TB testing is not a pre-requisite for employment;



- e) Testing will be done at the request of the employee, with their written and informed consent;
- f) Confidentiality regarding the HIV/AIDS and TB status of any member of staff will be maintained at all times;
- g) Disclosure by an employee of their status is encouraged and the necessary support will be provided; and
- h) Employees living with HIV/AIDS and/or TB will be expected to meet the performance requirements.

7. POLICY STATEMENT

The intention of the Department through its Policy is to:-

- a) Encourage employees and clients to take responsibility of their own health through ongoing provision of information, education and communication empowering them on important preventive health issues relevant to them;
- b) Encourage all units of the Department to consciously include in their work schedule/programmes awareness that will prevent or otherwise minimise as far as possible the spread of HIV/AIDS and TB;
- c) Encourage supportive and caring attitude towards people living with HIV/AIDS and TB;
- d) Protect the human rights of employees living with HIV/AIDS and/or TB with regard to employment policies and workplace practices;
- e) Promote a non-discriminatory and supportive work environment wherein employees living with HIV/AIDS and/or TB are able to:-
 - i. Continue working in their current employment for as long as they are medically fit to do so;
 - ii. Be open about their HIV/AIDS and TB status without fear of stigmatisation and discrimination.
- f) Ensure continuous availability of free condoms and masks, where possible, at strategic places in all departmental premises, as well as internal distribution to clients and to the high risk areas such as road camps;
- g) Provide in-house counselling services with regard to HIV/AIDS and TB pre/post and ongoing counselling for employees and their immediate family members who are infected with or affected by HIV/AIDS and/or TB;



- h) Inform employees about proper HIV/AIDS and TB testing procedures and the community based HIV counselling and testing (HCT) centres and encourage employees to undergo HCT.

8. COMMITMENT BY THE DEPARTMENT

8.1. Non- discrimination

8.1.1. The Department is committed to fair, sound and non-discriminatory employment practices. Employees with HIV/AIDS and/or TB will not be prejudiced, victimised or discriminated against on account of their HIV/AIDS and TB status;

8.1.2. HIV/AIDS and TB shall not be considered as a criterion for refusing promotion, training or developmental opportunities. Employees with HIV/AIDS and/or TB will not be dismissed on the basis of their status, nor will it influence retrenchment procedures; and

8.1.3. Colleagues of an infected employee who embark on any form of discrimination against the employee will be subjected to Departmental disciplinary procedures.

8.2. Recruitment

Prospective employees will not be required to undergo HIV testing as a condition of selection procedures, nor will they be required to disclose their HIV/AIDS and TB status.

8.3. Testing of Employees

8.3.1. All employees of the Department will be encouraged to undertake HIV/AIDS and TB testing through HIV/AIDS and TB awareness campaigns;

8.3.2. Ongoing counselling services may be made available through EAP counsellors who are equipped in dealing with a wide range of personal problems including HIV/AIDS and TB counselling.

8.4. Confidentiality

8.4.1. Persons with HIV/AIDS and TB have legal rights to confidentiality and privacy. No employee or prospective employee is required to disclose their status;

8.4.2. Only HIV/AIDS counsellors who provide ongoing counselling will have knowledge of employees' HIV/AIDS status and are bound by law to keep it confidential;



- 8.4.3. All records of HIV positive employees and discussions of personal problems are maintained separately and apart from an employee's personal files by the HIV/AIDS and EAP counsellor;
- 8.4.4. No means of identification i.e. flags or symbols will be used on employee's personal files to indicate their status. Employees' HIV status is regarded as confidential information that shall not be disclosed to a third party without a written consent of the affected employee. A breach of confidentiality in this regard will be subjected to disciplinary action;
- 8.4.5. Employees infected with HIV/AIDS and/or TB are entitled to the same benefits as all employees of the Department. The choice of membership with medical aid scheme rests with the employees.
- 8.5. Sick leave
The same sick leave policy will apply to employees with HIV/AIDS and TB.
- 8.6. Grievance procedures
The Department recognises the rights of employees living with HIV/AIDS and TB and ensures that the grievance procedures shall provide for any breach of such rights.

9. TERMINATION OF SERVICE

The provision of Schedule 8 of the Labour Relations Act, 1995 as amended read with the Public Service Regulations, 2016 on procedures to be followed to terminate employees due to ill-health shall also apply to employees infected with HIV/AIDS and TB.

10. HIV/AIDS AND TB WORKPLACE PROGRAMMES

- 10.1. Co-ordination and implementation
- 10.1.1. The Department's HIV/AIDS and TB sub-programme shall coordinate all programmes related to HIV/AIDS and TB in the Department;
- 10.1.2. The HIV/AIDS and TB sub-programme shall inter alia, be responsible for the following:-
- i. Communicate the policy and programmes to all stakeholders;
 - ii. Implement, monitor, evaluate and review the Department's Policy and programmes;



- iii. Advice management regarding programme implementation and progress;
- iv. Create a supportive and non-discriminatory working environment that encourages openness and acceptance of people living with HIV/AIDS and TB;
- v. Liaise with in-house EAP services, local HIV/AID and TB service organisations and other resources within the community, and
- vi. Drive the HIV/AIDS and TB awareness campaigns of the Department.

11. PARTNERSHIP WITH SOCIETY AND GOVERNMENT

- 11.2. The Department shall try to utilise all opportunities in which it interacts with civil society to contribute to the goals and objectives of the National and Provincial Programmes; and
- 11.3. The Department shall be represented on the inter-Departmental Committee to ensure a uniform and concerted response by government to the epidemic.

12. ROLES AND RESPONSIBILITIES

- 12.1. EAP is responsible for the management and co-ordination of the implementation of this policy;
- 12.2. The Director Human Resource Management is responsible for:-
 - i. proper distribution of this policy to all members of staff; and
 - ii. consistent administration of disciplinary procedures related to complaints arising from this policy.
- 12.3. The communication unit is responsible to prepare communication briefs periodically on HIV/AIDS and TB to be used during meetings and other departmental activities;
- 12.4. All programme managers are responsible to ensure:-
 - 12.4.1. that every employee receives a copy of this policy;
 - 12.4.2. that every staff member is aware of and understands the contents of this policy;
 - 12.4.3. that a channel of communication to raise awareness concerning HIV/AIDS and TB is established; and



12.4.4. referrals to the HIV/AIDS and TB EAP counsellors within their districts.

12.5. The role of the employee is to:-

12.5.1. follow the grievance rules and disciplinary procedure if discriminated, stigmatised or treated unfairly as a result of their HIV/AIDS and TB status;

12.5.2. ensure that they do not deliberately infect other employees; and

12.5.3. they must also comply with all medical treatment and prescriptions.

13. SANCTIONS FOR NON-COMPLIANCE

All employees are expected to comply with this policy. Non-compliance with any section of this policy shall result in disciplinary action.

14. MONITORING AND EVALUATION

The Department will regularly monitor the implementation of this policy and its programmes and evaluate its effectiveness.

15. POLICY REVIEW

This Policy shall be reviewed every two years where and/or when a need arises.

Approved



MR M. J. KGANTSI

HEAD OF DEPARTMENT

16/10/2023

DATE:

