

**DEPARTMENT : PUBLIC WORKS, ROADS AND TRANSPORT (NORTH WEST PROVINCE)**

**POLICY TITLE : POLICY ON HIV AND AIDS AND TUBERCULOSIS**

## **1. PREAMBLE**

The Department of Public Works, Roads and Transport acknowledges the seriousness of the HIV and 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 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 of Public Works, Roads and Transport to set out this HIV and AIDS and TB 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.

## **1. PURPOSE**

- 1.1** To provide a policy guideline to the management and staff in the Department of Public Works Roads and Transport in managing HIV/AIDS and TB in the work place.
- 1.2** To ensure fair and equitable treatment of employees infected and affected by HIV and AIDS and TB.
- 1.3** To protect the basic human rights of employees infected and affected by HIV and AIDS and TB.

## **2. SCOPE OF APPLICATION**

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, No: 55 of 1998 states that no person may unfairly discriminate, 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 birth.

Section 187(1) of the Labour Relations Act No: 66 of 1995 provides that an employee

with HIV and AIDS and TB may not be discriminated simply because he/she is HIV positive.

In accordance with section 14 of the constitution of the Republic of South Africa, all Persons with HIV and AIDS and TB have the right to privacy, including privacy concerning their HIV and AIDS and TB status.

Accordingly there is no general legal duty on an employee to disclose his/her HIV and AIDS and TB status to his/her employer or other employees.

## **DEFINITIONS**

<b>AIDS</b>	: Acquired Immune Deficiency Syndrome.
<b>STI</b>	: Sexually Transmitted Infection.
<b>HIV</b>	: Human Immune Virus.
<b>HIV TESTING</b>	: Taking medical test to determine a person's HIV status.
<b>TB</b>	: Tuberculosis.
<b>HIV POSITIVE</b>	: Having testing positive for HIV.
<b>EAP</b>	: Employee Assistance Programme.
<b>EAP Professional</b>	: A professional trained person providing counseling, therapy, marketing and evaluation of the EAP.
<b>EMPLOYEE</b>	: A person appointed in terms of the Public Service Act 1994.
<b>HCT</b>	: HIV counseling and testing

## **3. LEGAL FRAMEWORK**

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

- 3.1** The constitution of the Republic of South Africa Act 108 of 1996 as Amended.
- 3.2** The Labour Relations Act 66 of 1995 as amended and



### **3.3 The Employment Equity Act 55 of 1998**

## **4. PRINCIPLES**

This policy will adhere to the following principles:

- 4.1** The policy will be implemented in consultation with staff and their representatives.
- 4.2** Employees living with HIV and AIDS and TB have the same rights and obligations as all staff members.
- 4.3** Employees living with HIV and AIDS and TB shall be protected from discrimination.
- 4.4** HIV and AIDS and TB testing is not a pre-requisite for employment.
- 4.5** No staff member shall be required to undergo HIV and AIDS and TB testing. Testing will be done at the request of the employee, with his/her written and informed consent, and accompanied by counseling.
- 4.6** Confidentiality regarding the HIV and AIDS and TB status of any member of staff will be maintained at all times.
- 4.7** Disclosure by an employee of his/her status is encouraged and the necessary support will be provided.
- 4.8** Employees living with HIV and AIDS and TB will be expected to meet the performance requirements.

## **5. POLICY STATEMENT**

The intention of the Department through its Policy is to:

- 5.1** 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.
- 5.2** Encourage all units of the Department to consciously include in their work schedules/programmes awareness that will prevent or otherwise minimize as far as possible the spread of HIV and AIDS and TB.
- 5.3** Encourage supportive and caring attitude towards people living with HIV and AIDS and TB.

- 5.4** Protect the human rights of the employees living with HIV and AIDS and TB with regard to employment policies and practices.
- 5.5** Promote a non-discriminatory and supportive work environment wherein employees living with HIV and AIDS and TB are able to:
  - 5.5.1** Continue working in their current employment for as long as they are medically fit to do so.
  - 5.5.2** Be open about their HIV and AIDS and TB status without fear of stigmatization and discrimination.
- 5.6** Ensure continuous availability of free condoms at strategic places in all departmental premises, and its distribution to our clients and to the high-risk areas such as road camps.
- 5.7** Provide in-house counseling services with regard to HIV and AIDS and TB pre-post and ongoing counseling for employees and their immediate family members who are infected with or affected by HIV and AIDS and TB.
- 5.8** Inform employees about proper HIV and AIDS and TB testing procedures and the community based HIV counseling and testing (HCT) centers and encourage employees to undergo HCT.

## **6. COMMITMENT BY THE DEPARTMENT**

### **6.1 Non-discrimination:**

- 6.1.1** The Department is committed to fair, sound and non-discriminatory employment practices. Employees with HIV and AIDS and TB will not be prejudiced, victimized or discriminated against on account of their HIV and AIDS and TB status.
- 6.1.2** HIV and AIDS and TB shall not be considered as a criterion for refusing promotion, training or development opportunities. Employees with HIV and AIDS and TB will not be dismissed on the basis of their HIV and AIDS and TB status, nor will it influence retrenchment procedures.
- 6.1.3** Colleagues of an infected employee who embark on any form of discrimination against the employee will be subjected to the Departmental disciplinary procedures.



## **6.2 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 status.

## **6.3 Testing of employees**

**6.3.1** All employees of the Department of Public Works, Roads and Transport will be encouraged to undertake HIV testing through HIV and AIDS awareness campaign.

**6.3.2** Ongoing counseling services may be made available through EAP counselors dealing with a wide range of personal problems including HIV and AIDS counseling.

## **6.4 Confidentiality**

**6.4.1** Persons with HIV and AIDS have legal rights to confidentiality and privacy. No employee or prospective employee is required to disclose his/her status.

**6.4.2** Only HIV and AIDS counselors who provide ongoing counseling will have knowledge of employees HIV status that they have served.

**6.4.3** All records of employees with the HIV status and discussions of personal problems are maintained separately and apart from employee's personal files by the HIV and AIDS and EAP counselors.

**6.4.4** No means of identification i.e. flags or symbols will be used on employees personnel files to indicate their HIV status. Employees' HIV status is regarded as confidential information that shall not be disclosed to a third party without the written consent of the employees. A breach of confidentiality in this regard will be subjected to disciplinary actions.

**6.4.5** Employees infected with HIV are entitled to the same benefits as all other employees of the Department. The choice of membership with medical aid schemes rests with the employees.

## **6.5 Sick leave**

The existing sick leave policy will apply to employees with HIV and AIDS.

## **6.6 Grievance procedures**

The Department recognizes the rights of employees living with HIV and AIDS and ensures that the grievance procedures shall provide for any breach of such rights.

## **7. TERMINATION OF SERVICE**

The provision of schedule 8 to the Labour Relations Act, 1995 as amended read with the Public Service Regulations, 2001 on procedures to be followed to terminate employees due to ill health shall also apply to employees infected with HIV or AIDS and TB.

## **8. HIV AND AIDS WORKPLACE PROGRAMMES**

### **8.1 Co-ordination and implementation**

**8.1.1** The Department's HIV and AIDS sub-programme shall coordinate all programmes related to HIV and AIDS in the Department.

**8.1.2** The HIV and AIDS sub-programme shall, inter alia, be responsible for the following:

**8.1.2.1** Communicate the policy and programmes to all stakeholders;

**8.1.2.2** Implement, monitor, evaluate and review the Department's Policy and Programmes;

**8.1.2.3** Advice management regarding programme implementation and Progress;

**8.1.2.4** Create a supportive and non-discriminatory working environment that encourages openness and acceptance of people living with HIV and AIDS;

**8.1.2.5** Liaise with in-house EAP services, local HIV and AIDS service organizations and other resources within the community; and

**8.1.2.6** Drive the HIV and AIDS awareness campaigns of the Department.



## **8.2 Programme Component**

In accordance with the National and Provincial HIV and AIDS strategic plan, the Department shall ensure that all employees have access to:

- 8.2.1** Information, education and communication activities including media material and peer education;
- 8.2.2** Preventative materials like condoms;
- 8.2.3** Personal protective equipment for employees who may potentially be exposed to blood products; i.e. first aid attendance; and
- 8.2.4** Counseling services, through EAP office, for infected and affected employees and their dependants.

## **9. PARTNERSHIP WITH SOCIETY AND GOVERNMENT**

- 9.1** The Department shall try to utilize all opportunities in which it interacts with civil society to contribute to the goals and objectives of the National and Provincial Programmes.
- 9.2** The Department shall be represented on the Inter-Departmental Committee To ensure a uniform and concerted response by government to the epidemic.

## **10. ROLES AND RESPONSIBILITIES**

- 10.1** The Sub-programme HIV and AIDS is responsible for the management and co-ordination of the implementation of this policy.
- 10.2** The Director: Human Resource Management is responsible for proper Distribution of this policy to all members of staff. He/She is also in conjunction with the Director: Legal Support Services responsible for consistent administration of disciplinary procedures related to complaints arising from this policy.
- 10.3** The communication unit is responsible to prepare communication briefs periodically on HIV and AIDS to be used during meetings and other departmental activities.
- 10.4** All programme managers are responsible to ensure:
  - 10.4.1** that every employee receives a copy of this policy;

**10.4.2** that every staff member is aware of and understands the contents of the policy;

**10.4.3** that a channel of communication to raise awareness concerning HIV and AIDS is established;

**10.4.4** make referrals to the HIV and AIDS EAP counselors within their districts.

**10.5** The role of the employee is to follow the grievance rules and disciplinary procedure if discriminated, stigmatized or treated unfairly as a result of her/his HIV and AIDS and TB status.

## **11. SANCTIONS FOR NON-COMPLIANCE**

All employees are expected to comply with this policy. Non-compliance with any section of the policy may result in disciplinary action(s).

## **12. POLICY AND PROGRAMME REVIEW**

The HIV and AIDS policy and programmes will be regularly reviewed to accord and reflect medical, legal and occupational developments in the field.

## **13. EVALUATION AND MONITORING**

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

Approved



**MR A.KYEREH**  
**ACTING HEAD OF DEPARTMENT**

28/02/2012

**DATE**