

CENTRAL KAROO DISTRICT MUNICIPALITY HIV/AIDS WORKPLACE POLICY

1. PURPOSE

This policy aims at providing strength and mainstreaming all activities related to HIV and AIDS programmes within and outside the CKDM at present and in the future.

It also strives to support the government's multi-sectoral approach to the fight against HIV and AIDS. This policy is the result of the commitment of municipal staff, councillors and community structures/organisations to actively promote developmental local government.

By developing this policy, CKDM has increased the awareness and knowledge of HIV and AIDS and the possible impact of the epidemic in the workplace. The policy demonstrates the municipality's position, concern and commitment in taking active steps to help manage, prevent and contain the disease.

This policy also protects the legal right to work of employees who are diagnosed with a HIV/AIDS related condition and provides guidelines for situations where infection with HIV/AIDS is suspected. Our policy is to encourage sensitivity to and understanding for employees affected with HIV/AIDS.

HIV/AIDS could have a negative impact upon the workplace in a number of different ways due to:

- ⌘ Increasing costs of employee benefits
- ⌘ Increasing use of sick leave
- ⌘ Scarcity of skilled labour
- ⌘ Higher training costs
- ⌘ Low productivity
- ⌘ Low morale

2. OVERVIEW

The parties acknowledge the seriousness of the HIV/AIDS epidemic and seeks to minimize the social, economic and development consequences to workers and communities at large.

The people who work for the municipalities are important to Council and should be well cared for to ensure not only personal well-being but also optimum job performance. However, employees do from time to time experience psychological problems which may disturb their sense of well-being and thus also their job performance.

There are a number of aspects and legislation that informs this HIV and AIDS workplace policy and the body of the policy addresses the requirements of these laws, legal principles, relevant workplace codes, guides and collective agreements, as amended from time to time:

- ⌘ The Constitution of the Republic of South Africa, Act of 108 of 1996.
- ⌘ The Charter of Rights on AIDS and HIV, 1992
- ⌘ The Labour Relations Act 66 of 1995 as amended

- ⌘ The Employment Equity Act 55 of 1998
- ⌘ Occupational Health and Safety Act 85 of 1993
- ⌘ The Compensation for Occupational Injuries and Diseases Act 130 of 1993
- ⌘ Code of Good practice: key aspects of HIV/Aids and employment
- ⌘ The Basic Conditions of Employment Act 75 of 1997 as amended
- ⌘ The Department of Labour Code of Good Practice on Key aspects of HIV/AIDS and Employment, 2001
- ⌘ International Labour Organisation Convention (111) [ratified by South Africa]
- ⌘ Promotion of Equality and Prevention of Unfair Discrimination Act, 2000
- ⌘ The Guide for Government Departments: Managing HIV/AIDS in the Workplace, 2002
- ⌘ The Medical Schemes Act 131 of 1998

This Policy is informed by the manner in which the epidemic affects the world of work:

- ⌘ Discrimination against people with HIV threatens fundamental principles and rights at work, and undermines efforts for prevention and care.
- ⌘ Valuable skills and experience are lost.
- ⌘ The double burden on women intensifies as they have to earn a livelihood and provide care to sick family members and other dependants.

3. **RIGHTS AND RESPONSIBILITIES**

All employees shall be held responsible and accountable for complying with the policy.

3.1 *Municipal Manager*

The Municipal Manager takes overall responsibility for the implementation and compliance of this policy.

3.2 *Corporate Services Department*

The Manager : Human Resources is responsible for:

- ⌘ Facilitating the distribution of the policy to all Departments and employees.
- ⌘ Ensuring that all employees are informed of the content of this policy.
- ⌘ Facilitating the implementation of all programmes relating to this policy.
- ⌘ Provide counseling, including benefit counseling, to all employees.

3.3 *Managers and Supervisors*

All Managers and Supervisors:-

- ⌘ Must ensure that all employees are aware of and understand the content of the policy.
- ⌘ Are responsible for implementing the policy and ensuring compliance with and knowledge of its terms.
- ⌘ Must open and maintain communication channels to raise awareness concerning HIV/AIDS, including the provision of active support for Peer Education Programmes.
- ⌘ Are to take careful precaution to protect the confidentiality of information regarding any employee's health condition.
- ⌘ Ensure that any employee who is unduly concerned about contracting HIV/AIDS is assisted through individual counseling.
- ⌘ Must be sensitive to the needs of employees and assist them by demonstrating personal support, referring them to counseling services and arranging for benefit counseling as necessary.

- ⌘ Must ensure that immediate and appropriate corrective action is taken where necessary.

3.4 Employees

- ⌘ Employees should acknowledge that a fellow employee's health condition is private and confidential and an employee living with HIV/AIDS is under no obligation to disclose his/her condition to a manager or any other employee.
- ⌘ Employees shall not discriminate against fellow employees who are living with HIV/AIDS.
- ⌘ Employees shall endeavour to play a supportive role towards fellow employees who are living with HIV/AIDS.
- ⌘ Employees who are aware of their positive HIV status shall take every precaution to not accidentally infect a fellow employee or a member of community.

3.5 Unions

- ⌘ The Unions will show commitment to the policy and programmes.
- ⌘ The Unions will encourage their members and other employees to be involved and participate meaningfully in the programmes.

4. THE POLICY OBJECTIVES

This HIV and AIDS workplace policy defines the CKDM's position and establishes consistency of practices for the way it relates to employees affected by and infected with HIV/AIDS. The Policy also serves as the foundation for the entire Municipality HIV and AIDS response and sets the standard of behaviour expected of employees and councillors.

This Policy provides a framework of information and action that will guide the CKDM in developing an appropriate response to HIV and AIDS. Backed by the commitment from the representative trade unions, councillors and employees, the Policy will:

- ⌘ Guide the CKDM as an organisation and all its employees on how best to manage HIV/AIDS in the workplace;
- ⌘ Ensure non-discrimination of people affected and infected by HIV and AIDS and other life threatening conditions;
- ⌘ Creating a balance between the rights and responsibilities of all parties;
- ⌘ Act as a management tool that will be used by CKDM in the maintenance and monitoring of the HIV/AIDS programmes within the organisation; and
- ⌘ Facilitate a safe and healthy working environment for all. (employees and members of the public who utilise the CKDM's facilities).

5. MUNICIPALITY PRINCIPLES AND VALUES

The policy is developed and implemented in consultation with all the relevant stakeholders and their representatives.

The Central Karoo District Municipality based this workplace policy on HIV/AIDS on the following needs and principles:

- ⌘ All staff members have the same rights and obligations, whether they are HIV positive or not.
- ⌘ HIV testing will only be done on a voluntary basis, with informed consent.
- ⌘ Confidentially regarding the HIV status of any member of staff shall be maintained at all times.
- ⌘ HIV/AIDS shall not constitute a reason to preclude any person from employment. This includes access to training and promotion.

- ⌘ To recognize our responsibility to provide a healthy and equitable work environment for all employees, including those with HIV/AIDS.
- ⌘ To provide equal access to available and accurate information, prevention methods, and treatment and research results on HIV/AIDS to employees, in order to empower individuals to make good and necessary decisions about their health.
- ⌘ To promote appropriate, comprehensive and sustainable program development that assures all people and groups be treated fairly and equally and that no groups or individual should be discriminated against in the context of HIV/AIDS.
- ⌘ To develop partnerships with the private and public sector, non-governmental organisations and the community in order to foster better social responsibility.

6. **HIV/AIDS POLICY**

1. Pre-employment testing for HIV/AIDS is prohibited and will not be conducted.
2. No employee, or prospective employee will be required to undertake an HIV test in order to ascertain her/his HIV status. HIV testing may only take place on the basis of voluntary, informed and written consent, and where the Labour Court has declared such testing to be justifiable.
3. HIV/AIDS status shall not be a criterion for refusing to promote, train or develop an employee.
4. Employees who wish to be tested for HIV/AIDS shall have access to counseling and referral to appropriate facilities.
5. All medical information will be treated as confidential. Confidentiality of medical records will comply with all existing legal, medical and ethical management practices.
6. No employee shall be dismissed or have his/her employment terminated based solely on his/her HIV/AIDS status. Sensitivity in terms of the needs of critically ill employees is essential. The continued employment of people with HIV/AIDS may be of vital concern for the individual, both medically and emotionally.
7. Municipalities are obliged to follow accepted guidelines regarding dismissal for incapacity before terminating an employee's services. The above will include attempts to accommodate the employee's disability and to find alternatives to dismissal. (Alternative employment). Where an employee no longer has the capacity to continue working, the municipality may lawfully terminate the employee's services.
8. The HIV/AIDS status of an employee shall not be used as a criterion to identify or influence the selection of employees for retrenchment.
9. There is no medical evidence that the Aids-virus is transmitted in ordinary social or occupational settings. Therefore, the refusal to work with an employee that is HIV/AIDS positive shall be regarded as a disciplinary offence and appropriate action shall be taken.
10. All persons with HIV/AIDS have the legal right to privacy regarding their HIV status in all aspects of employment. Where an employee chooses to disclose his/her HIV status to the employer, this information will not be disclosed to others without the employee's consent. Any breach of confidentiality, unless legally indicated, will justify the instigation of disciplinary proceedings against the person who is in breach of that confidentiality.
11. Programmes shall encourage employees to disclose their HIV/AIDS status and shall provide appropriate support to such employees.
12. All employees shall have access to HIV/AIDS education and awareness programmes as arranged by the employer.
13. Employees living with HIV/AIDS should be treated no less favourable than employees with other comparable health/medical conditions in terms of benefits, workers compensation and reasonable compensation.
14. Programmes should recognize that women normally undertake the major part of caring for those with HIV/AIDS related illnesses as well as recognizing the particular needs of pregnant women.

7. PREVENTION PROGRAMMES

7.1 *Workplace exposure*

There are numerous ways in which employees could be exposed to HIV/AIDS in the workplace. These, amongst others, include:

- ⌘ Injuries that occurs resulting in bleeding and blood staining of clothes, tools and objects.
- ⌘ Health care employees exposed to body fluids or HIV-infected materials.
- ⌘ Resuscitation and first aid measures.
- ⌘ Rape or sexual penetrating assault.
- ⌘ Assault with sharp instruments or bleeding injuries.

If an employee is exposed to blood and/or other body fluids (through a needle stick instrument), or if infected blood or body fluids come in contact with mounth or eye mucous membranes, open wounds and cuts, the following precautions should be applied:-

- ⌘ Immediately rinse blood and body fluid splashes from the skin, eyes and mouth with water or (preferably) with an antimicrobial solution.
- ⌘ If it is a workplace injury immediately (within 7 days) report the accident to your supervisor and follow the WCA procedure.

7.2 *Safer sexual practice*

HIV infection is preventable and can be prevented through changes in behaviour and knowledge.

This policy recommends and promotes the ABC ethos for safe sexual practice: i.e. Abstinence, Be faithful to one partner and the use of Condoms.

Condoms shall be freely available to all employees in easily accessible locations.

7.3 *Educational Programmes*

- ⌘ The employer shall provide educational programmes for all employees.
- ⌘ These programmes will provide information and teach the skills necessary for all employees to prevent themselves and others from becoming infected and to combat discrimination.
- ⌘ Programmes should be targeted and tailored to the age, gender, sexual orientation and sectoral characteristics of the group.
- ⌘ Trusted and respected individuals should deliver programmes.
- ⌘ Programmes should be regularly monitored, evaluated, reviewed and revised where necessary.
- ⌘ Programmes should be linked, where feasible to health promotion programmes, such as substance abuse, stress and reproductive health.

7.4 *Gender specific programmes*

- ⌘ All should be gender sensitive as well as sensitive to race and sexual orientation.
- ⌘ Programmes should help women to understand their rights, both within the workplace and outside, and empower them to protect themselves.
- ⌘ Information to women needs to alert them to explain their higher risk on infection.
- ⌘ Appropriately targeted prevention programmes should be developed for men and should include awareness raising, risk assessment and strategies to promote men's responsibilities regarding HIV/AIDS prevention.

7.5 Voluntary Counseling and Testing (VCT)

- ⌘ The council shall encourage all employees to be tested to determine their HIV status
- ⌘ Such testing shall be voluntary and shall be accompanied by pre and post-test counseling to ensure informed consent.
- ⌘ Counseling and testing records will remain confidential
- ⌘ Employees/potential employees who voluntarily disclose their HIV status will not be refused employment/promotion on the grounds of their HIV Status.
- ⌘ All employees have the legal right to confidentiality about their HIV/AIDS status.
- ⌘ All employees shall have access to testing and counseling related to HIV/AIDS during normal working hours and as arranged with his/her supervisor.

8. EMPLOYEE BENEFITS, CARE SUPPORT PROGRAMMES

Recognizing that a supportive and caring response is an important factor in maintaining the quality of life for employees who have HIV/AIDS, the parties therefore commit itself to the following:

- ⌘ HIV infected employees will continue to work under normal conditions in their current employment for as long as they are physically fit to do so.
- ⌘ Employees with HIV/AIDS will not be unfairly discriminated against in the allocation of employee benefits.
- ⌘ Employees with HIV/AIDS will be governed without distinction or discrimination to existing sick leave allocations. Where an employee has exhausted or is close to exhausting her or his sick leave allocation, a joint investigation into possible alternatives will be undertaken within the parameters of the Personnel Policy and applicable Conditions of Service.
- ⌘ Municipalities will give assistance with regard to the medical schemes offered to employees. Medical Schemes should not unfairly discriminate, directly or indirectly, against any person on the basis of his/her HIV status.

9. NON-DISCRIMINATION OF PLWA'S (PEOPLE LIVING WITH AIDS)

Where co-workers refuse to work with an employee with HIV/AIDS, the CKDM will take steps to deal with this issue, including:

- ⌘ Investigation into the nature and cause of the dispute;
- ⌘ Attempt to resolve the dispute through mediation;
- ⌘ Provide counseling and additional education to all of those involved; and
- ⌘ As a final resort, the taking of disciplinary steps against staff causing the disruption.

10. HIV/AIDS COMMITTEE (Health & Wellness Committee)

The implementation of this policy will be co-ordinated by a HIV/AIDS Committee (Health & Wellness Committee) convened by the Department of Corporate Service. This Committee will comprise of representatives from various stakeholders and departments of CKDM.

This Committee will submit regular progress reports to the Local Labour Forum and a consolidated report to Council.

11. POLICY REVIEW

The HIV/AIDS Committee will review this policy annually by looking at:

- ⌘ Providing improved mechanisms to address stigma and discrimination;
- ⌘ Progress on key programmatic areas;
- ⌘ Additions and amendments;
- ⌘ Improving implementation;
- ⌘ Update the policy to include any changes in the legal framework or codes of good practices; and
- ⌘ Employment practices, staffing and workplace policies that may increase the risk of employees and discriminate or stigmatise

12. RESOURCING OF IMPLEMENTATION STRATEGY

The HIV/AIDS Steering Committee will draft a biannual operational budget and implementation strategy that will inform the programmatic areas of the aims and principles of this policy. CKDM will provide leadership and support to this policy by allocating an annual budget allocation and timeframes in line with its transformation and corporate governance frameworks.

SIGNED ON THIS.....DAY OF.....2005.

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FOR IMATU

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WITNESS

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FOR SAMWU

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WITNESS

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MUNICIPAL MANAGER

.....
WITNESS

ANNEXURE A: *List of applicable community structures/organisations.*

Gewone Raadsvergadering : 27 Mei 2005
Gvz/30/03/2005

EMPLOYEE WELLNESS

ABUSED EMPLOYEES

1. Report matter to the Manager Human Resources.

2. Manager will organise with Ms Adams [Social Services (023) 414-3204] for person to be put in a shelter.