



LIMPOPO

PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

PROVINCIAL TREASURY

LIMPOPO PROVINCIAL TREASURY

DEPARTMENTAL HIV AND AIDS

POLICY

TABLE OF CONTENT

Item no	Description	Page no
1	Preamble	3
2	Purpose	3
3	Applicable Legal Framework	3
4	Scope of application	4
5	Conditions of services	4
6	Sick leave	5
7	Confidentiality	5
8	Infected employees	6
9	Affected employees	6
10	Employee benefits	6
11	Compensation for occupationally acquired HIV	7
12	Dismissal	7
13	Institutional arrangements	7
14	Budgeting and resources	8
15	Policy control	8
16	Effective Date	9
17	Ratification	9

1. PREAMBLE

- 1.1** The Department of Provincial Treasury ["The Department"] recognizes and acknowledges that the Human Immunodeficiency Virus [HIV] knows no social, gender or racial boundaries and that the Acquired Immune Syndrome [AIDS] should be treated like other comparable life-threatening diseases.
- 1.2** The Department further recognizes that people living with HIV&AIDS face discrimination and prejudice in all aspects of life because of ignorance about HIV&AIDS. Employees with HIV&AIDS want to continue working, to enhance their physical and mental well-being. Therefore, they should be enabled and supported to contribute their creativity and productivity in their occupational setting.
- 1.3** The Department, through this document, commits itself to create an environment which shall enhance the human rights and dignity of employees who are infected and affected with HIV&AIDS.

2. PURPOSE

The purpose of this policy is to protect the human rights and dignity of HIV-infected and affected employees with AIDS, and to avoid discrimination and stigmatization.

3. APPLICABLE LEGAL FRAMEWORK

- 3.1.** The Constitution of Republic of South Africa, 1996 (Act No .108 of 1996)
- 3.2.** Basic Condition of Employment Act, 1997(Act No.75 of 1997).
- 3.3.** Employment Equity Act, 1998 (Act No.55 of 1998)
- 3.4.** Labour Relations Act, 1995 (Act No. 66 of 1995).
- 3.5.** Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)

- 3.6. Medical Schemes Act, 1997 (Act No. 75 of 1997)
- 3.7. Promotion of Equity and prevention of unfair Discrimination Act, 2000 (Act No. 4 of 2000).
- 3.8. Provincial Growth and Development Strategy.

4. **SCOPE OF APPLICATION**

The provision of this policy is applicable to employees of the Department and infected and affected families.

5. **CONDITIONS OF SERVICE**

5.1 **NON DISCRIMINATION**

- 5.1.1. No employee may be unfairly discriminated against on any arbitrary ground, including his/her HIV status.
- 5.1.2. The department is therefore committed to provide the necessary HIV and AIDS education to employees in the form of counseling and other awareness programmes.

5.2 **RECRUITMENT AND SELECTION/ TRAINING AND DEVELOPMENT**

HIV status must not constitute a reason to preclude any person from employment. The disclosure of HIV status must not, under any circumstances, be used to discriminate an employee on any ground. HIV status must not be a basis for refusing to conclude, continue or renew an employment contract or refusing to train and develop an employee.

5.3 VOLUNTARY COUNSELING AND TESTING

- 5.3.1** No employee shall be compelled to undergo HIV testing for employment reasons. Where testing is done at the request of the employee, this will be done with his/her written consent accompanied, by pre and post counseling.
- 5.3.2** Employees who avail themselves for voluntary testing will be pre counseled and referred to appropriate service providers for testing. They will also be provided with post counseling services.

6. SICK LEAVE

Employees with HIV and AIDS must comply with existing sick leave procedures as contained in the Public Service Co-coordinating Bargaining Council (PSCBC) Resolution 7 of 2000 and the Department's policy guidelines on sick leave.

7. CONFIDENTIALITY

- 7.1** An employee who contracts HIV at the workplace will not be obliged to inform management.
- 7.2** If an employee with HIV informs his/her supervisor, all reasonable precautions will be taken to ensure confidentiality and the right not to disclose.
- 7.3** Employees will be courage to disclose their HIV status within the workplace.
- 7.4** Such employees must be provided with care, support and counseling services.

7.5 Disclosure of any employees HIV and AIDS status without his/her written consent shall be a disciplinary offence.

7.6 Confidentiality regarding status of any employee shall be maintained at all times.

8. INFECTED EMPLOYEES AND AFFECTED EMPLOYEES

8.1 An employee with HIV infection is expected to meet the same performance requirements that apply to other employees, with reasonable accommodation as per Public Service Regulations, 2001.

8.2 No employee shall refuse to work with an infected colleague.

8.3. Employees will have access to information and education programmes on HIV and AIDS.

8.4. They will further be trained on general precautionary measures.

8.5. Both infected and affected may be trained as peer educators.

9. EMPLOYEE BENEFITS

9.1 Employees with HIV and AIDS may not be unfairly discriminated against in the allocation of employee benefits.

9.2 Employees who become ill with AIDS should be treated like any other employee with a comparable life threatening illness with regard to access to employee benefits.

9.3 Information from benefits schemes on the medical status of an employee should be kept confidential and should not be used to unfairly discriminate.

9.4 The Department offers a medical aid subsidy as part of the employee benefit package. The department must therefore ensure

that this scheme does not unfairly discriminate, directly or indirectly, against any employee the basis of his or her HIV status.

10. COMPENSATION FOR OCCUPATIONALLY ACQUIRED HIV

10.1 In terms of the Compensation for Occupational Injuries and Diseases Act, 1993, an employee may be compensated if he or she is infected with HIV as a result of an occupational accident.

10.2 The Department shall take reasonable steps to assist employees with application for benefits including:-

10.2.1 providing information to employees on the procedure that will need to be followed in order to qualify for a compensation.

10.2.2 assisting with the collection of information, indicating that the infection was contracted during the cause of employment. Arrangements should also be made for post exposure prophylaxis where employees have been in contact with blood.

11. DISMISSAL

11.1 Employees with HIV and AIDS may not be dismissed solely on the basis of their HIV and AIDS status.

11.2 Where an employee has become too ill to perform his/her work, the Department is obliged to follow accepted guidelines regarding dismissal on the basis of incapacity, as set out in the Code of

Good Practice On Dismissal, Schedule 8 of the Labour Relations Act, 1996 , prior terminating the his/ her service.

12. INSTITUTIONAL ARRANGEMENTS

12.1 The Department shall establish a HIV&AIDS Committee, coordinated by the Employee Wellness Unit, comprising of representative from all Chief Directorates.

12.2 Functions of HIV&AIDS committee are as follows:-

12.2.1 develop plans and awareness programme.

12.2.2 monitor and evaluate the implementation of this programme.

12.2.3 provide an in house counseling where necessary and upon Request, and engaging the services of trained professionals in the relevant field drawn from the Public Service.

12.2.4 establish mechanisms to deal with grievances and conflict relating to HIV & AIDS.

12.2.5 submit status reports to the Head of Department regarding the effects and impact of HIV&AIDS in the Department.

13. BUDGETING AND RESOURCES

The Department commits itself to avail resources to ensure that the policy is implemented.

14. POLICY CONTROL

14.1. POLICY AUDIT

Periodic audits will be conducted by the Directorate: Transformation Services, when deemed necessary.

14.2 POLICY REVIEW

This policy is subject to annual review or when deemed necessary by the department, to ensure that it is aligned to prevailing legislation and market related conditions.

14.3 POLICY AMENDMENTS

No amendment(s) may be made to any section of this policy without such amendment(s) first being negotiated upon with recognized Employee Organization; and duly approved and signed by the recognized parties to the provincial Bargaining Council.

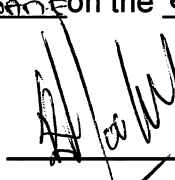
14.4 EFFECTIVE DATE

This policy will be effective from the 22 of June 2007.

14.5 RATIFICATION

This policy was signed at Pretoria on the 22 day of June 2007.

HEAD OF DEPARTMENT :



MEMBER OF EXECUTIVE COUCIL:

