

KGALAGADI DISTRICT MUNICIPALITY

WORKPLACE POLICY ON HIV/AIDS

1. POLICY STATEMENT

Kgalagadi District Municipality;

- Acknowledges the seriousness of the HIV/AIDS epidemic.
- Seeks to minimise the social, economic and developmental consequences to the organisation and its staff and
- Commits itself to providing resources and leadership to implement an HIV/AIDS and STI programme.
- Ensure a better understanding of HIV and AIDS in the workplace through Information, Education and Communication.
- Ensure the provision of free condoms and health education lessons on HIV/AIDS and STI's.

1.1 Principles

The Kgalagadi Municipality affirms that:

- The policy shall be developed and implemented in consultation with staff and their representatives;
- Staff living with HIV/AIDS have the same rights and obligations as all staff.
- Staff living with HIV/AIDS shall be protected against discrimination.
- HIV status shall not constitute a reason to preclude any person from employment.
- No staff member shall be required to undergo HIV testing. Where testing is done at the insistence of the employee, this will be with his/her informed consent and accompanied by counselling and
- Confidentiality regarding the HIV status of any member of staff shall be maintained at all times.

1.2 Definitions

- a) AIDS means Acquired Immunodeficiency Syndrome due to HIV infection.
- b) HIV means Human Immunodeficiency virus.
- c) STI – means s Sexually transmitted Infection.
- d) VCT – Voluntary Counselling and Testing

1.2.3 INTERIM WORKPLACE COMMITTEE MEMBERS

Mr. M.K. Mmoiemang	Municipal Manager
Mrs. N.P. Ditshetelo	Programme Manager
Mrs. R. Scheepers	Programme Co-ordinator
Mrs. O.C. Mogodi	Executive Mayor (Chairperson District Aids Council)
Mrs. I.H. Tlhakwe	Speaker (SALGA)
Mrs. M. Baanyang	Councillor (Chairperson, Health Committee)

HEADS OF THE FOLLOWING DEPARTMENTS/REPRESENTATIVE

- ◆ Finance
- ◆ Human Resource
- ◆ Management services
- ◆ Technical Department
- ◆ PIMS Centre

Mr. Johan Rossouw (IMATU)
Ms. L. Kurite (SAMWU)

Ex-officio

Mr. J. Holden HIV/AIDS Co-ordinator NCP
Mrs. V. Sekhobo HIV/AIDS Coordinator NWP

1.2.4 HIV/AIDS AND STI PROGRAMME IN THE WORKPLACE

Co-ordination and Implementation

Kgalagadi District Municipality shall appoint HIV/AIDS + STI committee to:-

- Communicate the policy to all staff,
- Implement, monitor and evaluate the Organisation's HIV/AIDS programme.
- Advice management regarding programme implementation and progress.
- Liaise with Local AIDS service organisations and other resources in the community and,
- Create a supportive and non discriminatory working environments.

2. GENERAL PRINCIPLE

People with HIV and AIDS may not be discriminated against in the Workplace

2.1 Guiding Principles

2.1.1 The Principle of Empowerment

The empowerment of every person, but particularly the poor, the uneducated and children, is essential and must guide all action. Empowerment requires recognition of the right to knowledge information and technology, freedom of choice and economic opportunity. Which will be provided to all employees of this municipality.

2.1.2 The Principle of Non-discrimination

An employee directly affected by the epidemic should remain an integral part of his or her community with the right of equal access to work, housing, education and social services with the right to many, with freedom of movement, belief and association with the right to counselling, care and treatment, justice and equity.

2.1.3 The Principle of Confidentiality and Privacy

An employee directly affected by the epidemic has the right to confidentiality and privacy. It can only be breached in exceptional circumstances.

If an employee informs an employer of his or her HIV/AIDS Status, this information shall not be disclosed to any other employee without that employee's written and expressed consent.

- ◆ A breach of confidentiality in this respect will be subject to disciplinary measures, which may include dismissal.

2.1.4 The Principle of Adoption

All employees and community should change and adapt social and cultural conditions to the new challenges of the epidemic in order to respond effectively.

2.1.5 The Principle of Sensitivity in Language. With regard to HIV/AIDS positive employee.

Language should uphold human dignity, reflect inclusion, be gender – sensitive, accurate and understandable.

2.1.6 The Principle of Prohibition of Mandatory HIV testing

HIV testing without informed consent should be prohibited. HIV testing should also not be a pre-requisite for access to work, travel or other services. (HIV/AIDS toolkit for Local Government:2001)

3. RECRUITMENT AND EMPLOYMENT

- 3.1.1 A prospective employee is under no obligation to inform this institution / Organisation of his or her HIV/AIDS status.
- 3.1.2 The same legislation, regulation, codes, and policies shall govern all employees or prospective employees with HIV/AIDS as they do to any other.
- 3.1.3 HIV status shall not deny an employee full participation in any activity of this Municipality.
- 3.1.4 Employees who wish to be tested for HIV shall have access to counselling and referral to appropriate facilities.

3.2 Injuries on duty

Kgalagadi District Municipality, as obliged by law, in terms of the Occupational Health and safety Act no.85 of 1993, shall provide and maintain as far as is reasonably practicably a workplace that is safe and without risk to the health of its employees:

- 3.2.1 All employees and in particular those employed within high risk areas / units within this institution shall be provided with a protocol with regard to workplace injuries.
- 3.2.2 All employees injured on duty, and where there is a possibility an employee has been exposed to HIV during an occupational accident, then he/she must report the incident immediately to their supervisors, and must make themselves available for testing in order to be eligible to claim for compensation as a result thereof, as set out in the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993.
- 3.2.3 All employees who are injured on duty as referred to in 3.2.2 must ensure that they are provided with the necessary documentation (W.CI – 2(D)). Which must be completed as soon as possible after the incident. The completion of the documentation is to ensure that correct records are maintained of the incident, in the event of an Injury on duty, to enable the employee claim at a later stage. Where applicable all employees will be provided with information about pre and post counselling and prophylactic treatment facilities in this district.
- 3.2.4 All personnel who are injured on duty, as referred to in 3.2.2 and 3.2.3 and who refuse to make themselves available for testing forfeit their right to compensation.
- 3.2.5 That the necessary forms as well as assistance in completion are available at the Human Resources Section where the incident should be reported in order to keep record of all injuries on duty.

3.3 Termination of Employment

- 3.3.1 No employee shall be dismissed or have his or her employment terminated based solely on his/her HIV status.
- 3.3.2 Should an individual be unable to continue to perform the duties for which she or he is employed, suitable alternative employment, if available at that stage with the relevant reduction in salary and status if necessary, will be considered.
- 3.3.3 The policies and procedures pertaining to termination of services on grounds of ill health that apply to all employee will also apply to employees who have AIDS.
- 3.3.4 HIV positive status per se shall not be used as a justification for the non-performance of duties.
- 3.3.5 The HIV status of an employee shall not be used as a criterion to identify or influence the selection of employees for retrenchment.
- 3.3.6 Refusal to work with an employee who is HIV / AIDS positive shall be regarded as a breach of the employment contract.

3.4 Sick Leave

- 3.4.1 The existing sick leave procedures shall also apply to employees with HIV / AIDS.

4. APPLICATION

This policy applies to all employees and prospective employees of Kgalagadi District Municipality. This policy shall be reviewed annually.

5. RESPONSIBILITY

- 5.1 All employees shall be held responsible and accountable for complying with this policy.
- 5.2 All managers must ensure that all members of staff are aware of and understand the contents of the Institution Policy on HIV / AIDS in the workplaces.
- 5.3 All managers are responsible for implementing this policy, ensuring compliance with, and knowledge of its terms, and for taking immediate and appropriate corrective action where necessary.

6. MANAGEMENT OF INFECTED EMPLOYEES

- 6.1 HIV / AIDS shall be treated in the same way as other disabling or terminal conditions.

7. PROGRAMME COMPONENTS / INTERNAL RESPONSE

7.1.1 Prevention

The HIV / AIDS programme of Kgalagadi District Municipality shall provide all staff access to:-

- ◆ Information, education and communication activities, including media materials and peer education.
- ◆ Barrier methods (male and female condoms)
- ◆ Appropriate and prompt referral for STI management.
- ◆ Referral for Voluntary Testing and Counselling (VCT) to relevant service providers.
- ◆ Personal protective equipment for staff who may potentially be exposed to blood or blood products.
- ◆ Support for both infected and affected staff.
- ◆ There is a very small risk of HIV transmission from blood in an accident situation – employees who render first Aid will be supplied with Health and Safety legislation and will be trained.

7.1.2 Care and Support

HIV infected employees are entitled to the same benefits as all staff.

- ◆ Although there is no cure for HIV infection, there are medical interventions and lifestyle adjustments that can prolong the life of employees with HIV. Where feasible and practical, this institution will offer such interventions to infected employees.
- ◆ This institution will endeavour to provide access to counselling for infected and affected employees either at work or in conjunction with community services.
- ◆ When an employee is no longer able to perform his/her duties as a result of HIV disease, he / she is encouraged to inform his/her supervisor.

7.1.3 Treatment & Care

Kgalagadi District Municipality will ensure that affected / infected employee will have access to treatment for opportunistic diseases. This will be done in conjunction with available health service from Provincial health District Offices of the Northern Cape and North West Provinces.

7.1.4 a. Co-ordination and management strategies.

- ◆ Kgalagadi District Municipality shall conduct regular impact analyses in order to understand the evolving epidemic and how it will impact on the future of the organisation, its structure, operations and functions.
- ◆ Regular reports on progress with the programme will be availed to the Executive & Management committee and council of Kgalagadi District Municipality.
- ◆ In accordance with the Employment Equity legislation, provided that a prospective employee is deemed to perform the job applied for, she / he will not be denied employment if she / he is HIV infected.

b. Monitoring and Evaluation

Kgalagadi District Municipality shall ensure that a monitoring and evaluation strategy is developed to regularly assess the impact and efficacy of the workplace HIV/AIDS policies and programmes.

7.1.5 Research / Survey

Kgalagadi District Municipality will conduct regular surveys on HIV/AIDS related issues in the work place and as a need arises.

7.1.6 Budget

Kgalagadi District Municipality shall allocate an adequate budget to implement every aspect of the programme.

7.1.7 Interactions with civil society

Kgalagadi District Municipality shall try to utilise all opportunities in which it interacts with civil society to contribute to the mission and objectives of the National HIV/AIDS and STI programme.

7.1.8 Interaction with government

Kgalagadi District Municipality shall serve on the Interdepartmental Committee to ensure a uniform and concerted response by Government to the epidemic.

8. LEGAL FRAME WORK

SUMMARY OF RELEVANT LEGISLATION

8.1.1 Constitution

The constitution gives all employees the right to “fair labour practices”. Furthermore, the equality clause states that everyone is entitled to equality and freedom from unfair discrimination.

8.1.2 Labour Relations Act (LRA)

The LRA regulates the relationship between employers and employees. It prohibits unfair discrimination and protects employees against arbitrary dismissals.

In outlawing discrimination the LRA states that it is an unfair labour practice if an employer unfairly discriminates against an employee on a number of grounds, if they act unfairly in promoting, demoting, providing training opportunities or supplying benefits to the employee, if discipline is arbitrary or if they fail or refuse to reinstate or re employ in terms of an agreement.

This Act therefore protects employees from being dismissed simply because they are HIV-positive and from being discriminated against with regard to employee benefits, staff training and other work-related opportunities.

8.1.3. Basic Conditions of employment

This act sets out the minimum employment standards to which every employee is entitled. It therefore sets out, amongst others, maximum working hours and the minimum number of days of sick leave every employee is entitled to.

8.1.4. Occupational Health and safety Act

This Act requires employers, as far as it is reasonably practicable, to create a safe working environment. In an HIV/AIDS context, this can be interpreted to mean that employers must ensure that universal precautions are used when responding to an occupational accident furthermore, employers should ensure the availability of proper equipment needed to protect staff against possible infection and appropriate training in the use of precautions provided.

8.1.5. Compensation for occupational injuries and disease Act

- (a) This Act provides compensation for employees who are injured in the “course and scope” of their employment. Therefore, if there is a possibility an employee has been exposed to HIV during an occupational accident then;
 - (i) An accident report should be completed and forwarded to the WCC.
 - (ii) The employee should be tested for HIV to determine their baseline status.
 - (iii) Any other person who has been involved in the accident should be tested with their informed consent.
 - (iv) The employee, if HIV-negative at the time of the accident, should be re-tested at three and six months after the accident.
 - (v) If they sero-convert during this period, an application for compensation may be made.

9. **DECLARATION**

Kgalagadi District Municipality is committed to responding to the HIV/AIDS epidemic in terms of people centred and gender sensitive development within the bounds of ethical, legal and human rights frameworks and with full community participation.

Adopted on this the day of2002.

M.K. MMOIEMANG
MUNICIPAL MANAGER

O.C. MOGODI
EXECUTIVE MAYOR

I.H. TLHAKWE
SPEAKER

WITNESS

N.P. DITSHETELO
DIRECTOR: COMMUNITY SERVICES

E.A. GABORONE
DIRECTOR: MANAGEMENT SERVICES

10. REFERENCES

1. Cabinet statement on HIV/AIDS: April 2002
2. HIV/AIDS tool kit for Local Government. Revised editor 2001
3. National Department of Health: Guidelines for the development of workplace policy and programmes for STI's, HIV/AIDS. Pretoria.
4. National Department of Health: 5 years strategic document – ten point plan. Pretoria.
5. Northern Cape: STI's HIV/AIDS status report 2001.
6. North-West: STI's, HIV/AIDS provincial working document 2000.