

SECTION D: HEALTH AND WELFARE POLICIES

29. HIV/AIDS POLICY

OBJECTIVE

The objective of this policy is to describe the Municipality policy and procedures of non-discrimination of employees and prospective employees, training programmes and counselling regarding HIV and AIDS.

POLICY

AIDS/HIV AND THE EMPLOYMENT CONTRACT

The Municipality will not treat employees or prospective employees with AIDS or are HIV positive differently from other employees. If an employee discloses their status to the Municipality, this will be held in the strictest of confidence.

The Municipality will treat employees and prospective employees in a just, humane and life-affirming way, with due consideration to the interests of fellow employees.

The Municipality acknowledges that continued employment, including appropriate promotion and training opportunities, may be therapeutically important for an employee with a life-threatening condition such as AIDS.

RECRUITMENT, CONTINUED EMPLOYMENT AND TERMINATION OF EMPLOYMENT

Any medical examination undertaken either before employment or thereafter will be solely to determine functional performance, and offer a prognosis on the fitness for work of the prospective employee. In this respect:

- An HIV test as a pre-condition of employment shall not be required under any circumstances, or for any position;
- If a person makes their HIV/AIDS status known voluntarily, it shall not be a basis for refusing to conclude, to confirm or to review their employment contract;
- Employees with HIV/AIDS shall be governed by the same contractual obligations as all other employees;
- HIV/AIDS shall not be used as a justification for the non-performance of duties agreed to by the Municipality and the employee; and
- No employee shall be dismissed, retrenched, or have their employment terminated merely on the basis of having a life-threatening condition such as HIV/AIDS.

PROMOTION, TRAINING AND DEVELOPMENT

HIV/AIDS status shall not be a criterion for refusing to promote, train and develop an employee who would otherwise be considered.

ILL-HEALTH, LEAVE AND PERFORMANCE

Following a diagnosis of an employee having HIV/AIDS, the employee and the Municipality may agree jointly on a medical examination to determine the employee's ability to continue to perform their duties.

The Municipality undertakes to ensure that people with HIV/AIDS not only retain their employment but that their health be monitored and, when it is determined by medical opinion that an employee with HIV/AIDS can no longer perform their duties, the following steps should be taken:

- The Municipality will, at the earliest opportunity, through consultation with the employee and medical practitioners, endeavour to find a position that is less strenuous which the individual can fulfil. The employee's remuneration and benefits will be adjusted accordingly to that applicable to the new position, without discrimination;
- Termination of employment may be considered, after consultation with the employee, when an employee with an AIDS related condition is too ill to continue employment, or where a position suitable to the reduced state of health of the employee is unavailable;
- If the Municipality terminates the employment of such employee, merely due to the fact that they are no longer able to continue working, such termination shall be governed by the same procedures pertaining to comparable life-threatening conditions and disabilities (e.g. cancer, etc); and
- No employee shall be dismissed solely on the basis of HIV/AIDS, nor shall the HIV/AIDS status influence retrenchment procedures. No flags or symbols will be used on an employee's medical, personal or other records to indicate the HIV/AIDS status.

BENEFITS

The Municipality will not discriminate against any HIV/AIDS employee with regards to the Municipality benefits that are due to them or that they have accrued. Any employee with a life-threatening disease is provided with group life as opposed to a life policy.

TESTING

Pre-employment testing for HIV will not be permitted under any circumstances because it is:

- Discriminatory, in that it stigmatises prospective employees and infringes their human rights by excluding them from productive employment; and
- Inefficient because of the window period in which HIV antibodies cannot be detected.

THE MUNICIPALITY'S SOCIAL RESPONSIBILITY

It shall be the Municipality's policy to handle every case on an individual basis by providing support in any area where the Municipality can be of assistance. All information shall be treated with strictest of confidence.

30. MEDICAL EXAMINATIONS POLICY

OBJECTIVE

The objective of this policy is to outline guidelines for medical testing of Municipality employees.

POLICY

- (1) This may be necessary in cases where the requirements of the job require an employee to be in a certain physical condition to be able to conduct their duties effectively (e.g. driver who may need to have their eyesight tested). The cost of such an examination will be borne by the Municipality.
- (2) Should an employee wish to have their own medical practitioner present at the examination, they are free to do so at their own cost. However, the Municipality will prescribe a form on which the report of the medical practitioner is to be submitted.
- (3) Employees will be advised to complete a medical history record card during induction. This will not be compulsory, but employees are encouraged to volunteer medical information that they feel will be beneficial for fellow employees to know. A medical examination will not be required. Should an employee be epileptic, disclosure of such information would be beneficial to both the employee and the Municipality.
- (4) Material misrepresentation of any health aspect by the applicant is a dismissible offence. The Municipality's access to information produced by the medical examinations is restricted by the normal conditions for medical confidentiality. The medical reports will be retained by the medical practitioner, and not be kept on Municipality premises.
- (5) The Municipality will not deny a person employment based on the applicant's state of health, unless their health can be shown to have a direct influence on the performance of duties associated with the job (this would include a health safety risk).
- (6) Decision must be specific to the requirements of the job, if an applicant is refused appointment to a job on health grounds. This should in no way influence their possible appointment to another position with a different occupational health risk profile. The decision on the appointment of an applicant to a job should only be influenced by the effect their health condition may have on the health and safety of themselves, as well as the conditions influence on the performance on the performance of their tasks and responsibilities.
- (7) Employees may be required to undergo medical examinations as a requirement of insurance companies e.g. as a pre-condition for acquiring a life cover policy, application for ill-health retirement, pension fund membership, Injury On Duty, etc.

31. SEXUAL HARASSMENT POLICY

OBJECTIVE

The objective of this policy is to give practical guidance to employees on the protection of the dignity of women and men at work. The aim of the policy is to ensure that sexual harassment does not occur, to ensure that adequate procedures are readily available to deal with the problem and prevent its recurrence. The policy thus seeks to encourage the development and implementation of practices that establish working environments free of sexual harassment in which women and men respect each other's human dignity.

POLICY

Whereas:

- Every employee is entitled to fair labour practices;
- Employees have a right to their dignity;
- Employees have a right to equality; and
- The Municipality seeks to provide a working environment free from any form of harassment which constitutes unacceptable behaviour and which is offensive,

This policy outlines guidelines aimed at combating sexual harassment.

It is the duty and responsibility of all employees to comply with the policy and to ensure that their colleagues are treated with respect and dignity. Allegations of sexual harassment will be dealt with seriously, expeditiously and confidentially and employees who bring in a complaint of sexual harassment will be protected against victimisation or retaliation. Appropriate disciplinary measures will be taken against employees found guilty of sexual harassment.

The Municipality regards harassment as offensive, degrading and potentially threatening and it will not be tolerated. Individuals at any level, found to have engaged in conduct constituting harassment will be disciplined. The Municipality encourages reporting of all incidents of harassment, regardless of who the offender may be. All employees have the right to pursue a complaint without fear of reprisal or retaliation.

This policy forms part of the Municipality's broader policy to promote equal opportunities.

DEFINITION

Sexual harassment means any unwelcome and in certain circumstances tolerated sexual advances, request for sexual favours, and other verbal or non-verbal or physical or non-physical conduct of a sexual nature including the concept of hostile environment.

In determining whether any conduct, comment, gesture or contact of a sexual nature constitutes sexual harassment, the Municipality shall determine whether on reasonable grounds, the conduct complained of might be perceived by that employee or the employee's co-workers as placing a condition of a sexual nature on the individual's

employment or any opportunity for training or promotion in respect of the employee recipient.

In determining the existence of a hostile environment the Municipality considers a hostile environment as one which a reasonable person would find hostile or abusive and which the victim or the victim's co-workers subjectively perceive to be abusive. In evaluating whether an environment is hostile or abusive, the Municipality shall look at a host of factors, including but not limited to the following:

- x The frequency of the sexual discriminatory conduct,
- x Its severity,
- x Whether it is physically threatening or humiliating, or a mere offensive utterance, and
- x Whether it interferes with an employees work performance,
- x Whether the physical environment is such that it reflects or encourages a negative concept of the female or male gender.

Conduct that can constitute sexual harassment include but are not limited to: -

- x Verbal conduct - unwelcome remarks, innuendoes or offensive comments about a person's body, clothing or sex, practical jokes of a sexual nature which cause awkwardness or embarrassments, propositioning or pressure for sexual activity, embarrassing questions;
- Physical conduct - unwanted or unnecessary physical conduct and contact, physical assault, caressing sexual conduct, physical bullying, threatening, unnecessary physical contact, such as touching, petting or pinching;
- x Non-verbal conduct - display of pornographic or sexually suggestive pictures, whistling, leering (suggestive staring), sexually suggestive gestures, graffiti of a sexual nature, publication of gender offensive material, insulting gestures of a gender derogatory nature, displaying pinup pictures or other material of a gender derogatory nature, refusing or showing a reluctance to talk to, or work with, an employee solely because of his or her nature.

VICTIMISATION

Employees will be protected from intimidation, victimisation or discrimination following the complaint or their assisting in an investigation of harassment. Any action constituting retaliation against an employee for lodging a complaint about harassment will constitute a disciplinary offence and will be treated accordingly.

THE MUNICIPALITY'S COMMITMENT

The Municipality is committed to providing a work environment that is harassment free and where individuals are treated with dignity and respect. Individuals, who do not abide by this, will be disciplined appropriately. The Municipality will apply disciplinary action irrespective of seniority or status.

32. SMOKING POLICY

OBJECTIVE

The objective of this policy is to regulate the working environment and to give guidelines for smokers to ensure that the rights of other employees are not abused.

POLICY STATEMENT

- (1) The Municipality wishes to provide a healthy, comfortable and productive work environment for all employees. On the other hand, non-smokers also need to be sensitive to the needs of their smoking colleagues.
- (2) The Municipality recognises that smoking can cause harm to the health of the smoker and those around them. Therefore, Municipality prohibits smoking within its buildings and vehicles. Smoking is permissible during authorized breaks, these are to be reasonable and any abuse of working time may lead to disciplinary action.

33. SUBSTANCE ABUSE POLICY

OBJECTIVE

The objective of this policy is to ensure that the Municipality is a drug and alcohol free environment.

POLICY

The use and misuse of drugs, both legal and illegal, while on duty, on Municipality premises and while Municipality affairs is prohibited. The Municipality specifically prohibits the use, possession, distribution or sale of drugs and alcohol on its premises and while conducting Municipality affairs. Furthermore, no employee may conduct Municipality affairs while under the influence of drugs or alcohol. Minimum consumption of liquor on site may be permissible only on Authorised Council functions

EMPLOYEE ASSISTENCE PROGRAMME