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HIV & AIDS POLICY			
Originator:	Approved By:	Revision No:	Effective Date:
QMR	Johan Grobbelaar	0.2	November 2020
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SCOPE OF POLICY

This policy applies to all employees in the workplace as well as to prospective employees of the company.

PURPOSE OF THE POLICY

The Human Immunodeficiency Virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS) are serious public health problems which have socio-economic, employment and human rights implications.

The main objective of the policy is to set out guidelines so as to ensure individuals with HIV infection are not unfairly discriminated against in the workplace. The employer is dedicated to:

1. create a non-discriminatory work environment;
2. deal with HIV, confidentiality and disclosure;
3. manage grievance procedures.

POLICY PRINCIPLES

1. The promotion of equality and non-discrimination between individuals with HIV infection and those without, and between HIV/AIDS and other comparable health/medical conditions;
2. The creation of a supportive environment so that HIV infected employees is able to continue working under normal conditions in their current employment for as long as they are medically fit to do so.
3. The protection of human rights and dignity of people living with HIV or AIDS is essential to the prevention and control of HIV/AIDS.

LEGAL FRAMEWORK

This policy should be read in conjunction with the Constitution of South Africa Act, No. 108 of 1996, and all relevant Legislation that includes the following:

- (i) Employment Equity Act, No. 55 of 1998;

- (ii) Labour Relations Act, No. 66 of 1995;
- (iii) Occupational Health and Safety Act, No. 85 of 1993;
- (iv) Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993;
- (v) Basic Conditions of Employment Act, No. 75 of 1997;
- (vi) Medical Schemes Act, No. 131 of 1998; and
- (vii) Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 of 2000.

PROMOTING A NON-DISCRIMINATORY WORKING ENVIRONMENT

1. No person with HIV or AIDS shall be unfairly discriminated against within the employment relationship or within any employment policies or practices including with regard to;
2. To promote a non-discriminatory work environment employees are protected through positive measures such as:
 - (a) preventing unfair discrimination and stigmatization of people living with HIV or AIDS through the development of HIV/AIDS policies;
 - (b) awareness, education and training on the rights of all persons with regard to HIV and AIDS;
 - (c) mechanisms to promote acceptance and openness around HIV/AIDS in the workplace;
 - (d) providing support for all employees infected or affected by HIV and AIDS;
 - (e) grievance procedures and disciplinary measures to deal with HIV-related complaints in the workplace;
 - (f) providing appropriate equipment and materials to protect employees from the risk of exposure to HIV, e.g. gloves and masks;
 - (g) details of employee assistance available to persons affected by HIV/AIDS;
 - (h) encourage voluntary testing;
 - (i) conduct education HIV/AIDS;

- (j) promote condom distribution and use;
- (k) encourage health seeking behaviour for STD's;
- (l) enforce the use of universal infection control measures;
- (m) create an environment that is conducive to openness, disclosure and acceptance amongst all staff;
- (n) assistance with counselling and other forms of social support for people affected by HIV/AIDS;

HIV TESTING, CONFIDENTIALITY AND DISCLOSURE

HIV Testing

No employee will be required to undertake an HIV test in order to ascertain that employee's HIV status.

Permissible testing

1. An employer may provide testing to an employee who has requested a test in the following circumstances:
 - 1.1. As part of a health care service provided in the workplace;
 - 1.2. In the event of an occupational accident carrying a risk of exposure to blood or other body fluids;
 - 1.3. For the purposes of applying for compensation following an occupational accident involving a risk of exposure to blood or other body fluids.
2. Furthermore, such testing may only take place within the following defined conditions:
 - 1.1. At the initiative of an employee;
 - 1.2. Within a health care worker and employee-patient relationship;
 - 1.3. With informed consent and pre- and post-test counselling, as defined by the Department of Health's National Policy on Testing for HIV; and
 - 1.4. With strict procedures relating to confidentiality of an employee's HIV status as described above.

- 1.4.1. All testing, including both authorized and permissible testing, should be conducted in accordance with the Department of Health's National Policy on Testing for HIV issued in terms of the National Policy for Health Act, No. 116 of 1990.
- 1.4.2. Informed consent means that the individual has been provided with information, understands it and based on this has agreed to undertake the HIV test. It implies that the individual understands what the test is, why it is necessary, the benefits, risks, alternatives and any possible social implications of the outcome.
- 1.4.3. Anonymous, unlinked surveillance or epidemiological HIV testing in the workplace may occur provided it is undertaken in accordance with ethical and legal principles regarding such research. Where such research is done, the information obtained may not be used to unfairly discriminate against individuals or groups of persons. Testing will not be considered anonymous if there is a reasonable possibility that a person's HIV status can be deduced from the results.

CONFIDENTIALITY AND DISCLOSURE

1. All persons with HIV or AIDS have the legal right to privacy. An employee is therefore not legally required to disclose his or her HIV status to their employer or to other employees.
2. Where an employee chooses to voluntarily disclose his or her HIV status to the employer or to other employees, this information may not be disclosed to others without the employee's express written consent. Where written consent is not possible, steps must be taken to confirm that the employee wishes to disclose his or her status.
3. Mechanisms should be created to encourage openness, acceptance and support for those employers and employees who voluntarily disclose their HIV status within the workplace, e.g. support groups, awareness programs etc.

COMPENSATION FOR OCCUPATIONALLY ACQUIRED HIV

1. An employee may be compensated if he or she becomes infected with HIV as a result of an occupational accident, in terms of the Compensation for Occupational Injuries and Diseases Act.
2. Employers will take reasonable steps to assist employees with the application for benefits including:
 - (a) providing information to affected employees on the procedures that will need to be followed in order to qualify for a compensation claim; and

(b) assisting with the collection of information which will assist with proving that the employees were occupationally exposed to HIV infected blood.

3. Occupational exposure is dealt with in terms of the Compensation for Occupational Injuries and Diseases Act.

EMPLOYEE BENEFITS

1. Employees with HIV or AIDS will not be unfairly discriminated against in the allocation of employee benefits.
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.
3. Information on the medical status of an employee will be kept confidential and will not be used to unfairly discriminate.

DISMISSAL

1. Employees with HIV/AIDS will not be dismissed solely on the basis of their HIV/AIDS status.
2. Where an employee has become too ill to perform their current work, the employer undertakes to follow accepted guidelines regarding dismissal for incapacity before terminating an employee's services, as set out in the Code of Good Practice on Dismissal contained in Schedule 8 of the Labour Relations Act.

GRIEVANCE PROCEDURE

The rights of employees with regard to HIV/AIDS, and the remedies available to them in the event of a breach of such rights, is covered by the Company's Grievance Procedures. The confidentiality of the complainant during such proceedings will be paramount and such proceedings will be held in private.

DYNAMICS

1. Policy development and implementation is a dynamic process, so the workplace policy should be:
 - (a) communicated to all concerned;
 - (b) routinely reviewed in light of epidemiological and scientific information;
 - (c) monitored for its successful implementation and evaluated for its effectiveness

GLOSSARY

<i>Affected employee:</i>	an employee who is affected in any way by HIV/AIDS e.g. if they have a partner or a family member who is HIV positive.
<i>AIDS:</i>	AIDS is the acronym for "acquired immune deficiency syndrome". AIDS is the clinical definition given to the onset of certain life-threatening infections in persons whose immune systems have ceased to function properly as a result of infection with HIV.
<i>Epidemiological:</i>	The study of disease patterns, causes, distribution and mechanisms of control in society.
<i>HIV:</i>	HIV is the acronym for "human immunodeficiency virus". HIV is a virus which attacks and may ultimately destroy the body's natural immune system.
<i>HIV testing:</i>	taking a medical test to determine a person's HIV status. This may include written or verbal questions inquiring about previous HIV tests; questions related to the assessment of 'risk behaviour' (for example questions regarding sexual practices, the number of sexual partners or sexual orientation); and any other indirect methods designed to ascertain an employee's or job applicant's HIV status.
<i>HIV positive:</i>	having tested positive for HIV infection.
<i>Infected employee:</i>	an employee who has tested positive for HIV or who has been diagnosed as having HIV/AIDS.
<i>Informed consent:</i>	a process of obtaining consent from a patient which ensures that the person fully understands the nature and implications of the test before giving his or her agreement to it.
<i>Policy:</i>	a document setting out an organization's position on a particular issue.
<i>Pre- and post-test counselling:</i>	a process of counselling which facilitates an understanding of the nature and purpose of the HIV test. It examines what advantages and disadvantages the test holds for the person and the influence the result, positive or negative, will have on them.
<i>Reasonable Accommodation:</i>	means any modification or adjustment to a job or to the workplace that is reasonably practicable and will enable a person living with HIV or AIDS to have access to or participate or advance in employment.
<i>STDs:</i>	acronym for "sexually transmitted diseases". These are infections passed from one person to another during sexual intercourse, including syphilis, gonorrhoea and HIV.