

J. HIV/AIDS

PHILOSOPHY

The JSE commits itself to creating and maintaining an environment, which is free from all forms of unfair discrimination, including that of people living with HIV/AIDS and other life threatening illnesses.

1. INTRODUCTION

- 1.1 The JSE recognises that 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.
- 1.2 The JSE further acknowledges that the HIV/AIDS epidemic will affect its workplace, with prolonged employee illness, absenteeism and death impacting on productivity, employee benefits, occupational health and safety and workplace morale. Accordingly, it is necessary to have a policy, which will provide guidelines for handling this epidemic.

2. OBJECTIVES

The objective of the policy is to provide guidelines, which will:

- 2.1 Help to create a conducive working environment for employees living with HIV/AIDS or any other life threatening illness.
- 2.2 Eradicate any form of unfair discrimination against employees living with HIV/AIDS or any other life threatening illness.
- 2.3 Clarify incapacity relating to HIV/AIDS and any other life threatening illness.

3. PRINCIPLES

This policy should be read in conjunction with the relevant legislation i.e. Employment Equity Act, Labour Relations Act, Occupational Health and Safety Act, Basic Conditions of Employment Act, Promotion of Equality and Prevention of Unfair Discrimination Act, Medical Schemes Act which incorporate the following:

- 3.1 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.
- 3.2 The creation of a supportive environment, so that HIV infected employees are able to continue working under normal conditions in their current employment for as long as they are mentally and physically fit to do so.
- 3.3 The protection of human rights and dignity of people living with HIV or AIDS is essential to the prevention and control of HIV/AIDS.
- 3.4 Consultation, inclusivity and full participation of all JSE employees.

The JSE further commits itself to the following:

- 3.5 Managing unfair discrimination in the workplace based on an employee's HIV status.
- 3.6 Promoting a non-discriminatory workplace in which people living with HIV or AIDS are able to be open about their HIV/AIDS status without fear of stigmatisation or rejection.
- 3.7 Promoting appropriate and effective ways of managing HIV/AIDS in the workplace.
- 3.8 Creating an environment with a balance between the rights and responsibilities of all parties.

4. DEFINITIONS

- 4.1 The term AIDS describes the most serious form of the infection, which is caused by a specific virus, called the Human Immunodeficiency Virus (HIV).

The infection can take different forms – a carrier form, in which a person has no symptoms, or other forms in which a person has mild to moderate symptoms which may either clear up, continue or get worse.

- 4.2 **What are the Symptoms of HIV/AIDS?**

- 4.2.1 HIV/AIDS symptoms are not specific; but they include:

- 4.2.1.1 Swollen lymph glands in the neck, or groin;
 - 4.2.1.2 Persistent night sweats;
 - 4.2.1.3 Severe tiredness;
 - 4.2.1.4 Loss of weight for no apparent reason;
 - 4.2.1.5 Diarrhoea.

- 4.2.2 These symptoms are usually caused by other less serious illnesses but anyone who has more than one, or persistence of one of these problems without any obvious cause should see a doctor.

- 4.3 **How is HIV/AIDS Spread?**

Based on current research the HIV/AIDS virus is transmitted by four known ways:

- 4.3.1 Through sexual contact;
 - 4.3.2 Through sharing contaminated needles or syringes;
 - 4.3.3 Through transfusion of infected blood products;
 - 4.3.4 From an infected mother to an infant in the womb or shortly after birth via breast-feeding.

Transmission through casual contact such as working together, common use of toilets, swimming pools and touching the same objects does not occur. It would appear that the risk of HIV/AIDS being transmitted though normal contact in the workplace seems to be virtually non-existent.

- 4.2 **High Risk Behaviour**

- 4.2.1 Promiscuous sexual behaviour by any group;
- 4.2.2 Intravenous drug abuse;
- 4.2.3 Regular blood transfusion or blood product transfusion
- 4.2.4 Sexual partners of the above high-risk behaviour groups are also at risk.

5. POLICY

- 5.1 Employees with HIV/AIDS shall be entitled to the same rights and opportunities as all other employees.
- 5.2 Procedures regarding sick leave, return to work, work restrictions will be the same as applied for other illnesses or injuries.

5.3 Non-discriminatory work environment

No person with HIV or AIDS shall be unfairly discriminated against within the employment relationship or within any employment policies or practices, including the following:

- 5.3.1 Recruitment and selection
- 5.3.2 Remuneration, employment benefits and terms and conditions of employment
- 5.3.3 Learning and development
- 5.3.4 Promotion, transfer and demotion
- 5.3.5 Disciplinary measures
- 5.3.6 Termination of services

5.4 HIV Testing, Confidentiality and Disclosure

- 5.4.1 Every employee has the right to confidentiality, and the right not to disclose their HIV status. The Company may not initiate the conducting of HIV tests for employees unless the provisions of the Employment Equity Act have been fulfilled.
 - Employees are therefore under no obligation to disclose their HIV status to the Company.
 - Employees who are HIV positive are however, encouraged to disclose their HIV status to the JSE (HR and/or direct manager) as this will enable the JSE to provide proactive management of their condition.
 - Information relating to HIV status of any employee must be regarded and treated by the JSE as strictly confidential, unless the employee concerned has provided express written consent that it may be disclosed to specified third parties.
 - Any manager, to whom an employee has disclosed their HIV status, must accept such information in absolute confidence. The manager may only advise a third party as to the status of the employee on receipt of express written consent by the disclosing employee;

- On disclosing his/her HIV/AIDS status to the JSE the employee will be informed of all workplace HIV/AIDS wellness programmes that the company is able to offer;
- In the event of the HIV/AIDS status of the employee impacting upon his/her ability to work, the Manager concerned (in consultation with HR) must attempt to implement measures aimed at accommodating the employee so as to enable him/her to fulfil the inherent requirements of the position;

An accommodation is defined as being any adjustment or modification to a job, or workplace that enables an HIV positive employee to fulfil the requirements of the position. Such accommodation must be reasonable and take into consideration the undue hardship placed on the JSE in providing such accommodation.

5.5 Dismissal

- 5.5.1 Employees with HIV/AIDS may not be dismissed solely on the basis of their HIV/AIDS status.
- 5.5.2 Where an employee has become too ill to perform their current work, we are committed to following accepted guidelines regarding dismissal for incapacity before terminating an employee's service.
- 5.5.3 Managers/HR Practitioners should ensure that as far as possible, the employee's rights to confidentiality regarding his or her HIV/AIDS status is maintained during any incapacity proceedings. An employee cannot be compelled to undergo an HIV/AIDS test or to disclose his or her HIV/AIDS status as part of such proceedings unless the Labour Court authorised such test.

5.6 Programs

The JSE will organise programs aimed at creating awareness, prevention and care e.g. Health Day, distribution of booklets, condom distribution and counselling.

5.7 Victimization

Any JSE employee suspected of victimising or discriminating against an HIV infected person will be subject to disciplinary action.

5.8 Dispute Resolution Procedure

- 5.8.1 Employees who feel their rights have been compromised in respect of HIV/AIDS or any other life threatening illness; have the right to invoke the dispute resolution procedure.
- 5.8.2 This policy and guidelines concerning HIV/AIDS will be changed as necessary to reflect new knowledge about the disease or on grounds of new developments.