

HIV and AIDS Policy and Procedure



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Abstract: This document outlines the principles and legislation underlying Touching Nations's HIV/AIDS policy and the procedures involved in the management of HIV/AIDS in the work place.

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HIV and AIDS Policy and Procedure

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1. INTRODUCTION

The HIV/AIDS epidemic has become a global crisis and constitutes one of the most formidable challenges to development and social progress. While it is scientifically accepted that HIV/AIDS is not influenced by social, gender or racial factors, its disease patterns are known to be influenced by socio-economic circumstances.

Touching Nations has developed this policy as a response to the crisis imposed by HIV/AIDS. The policy aims to not only manage those who are infected and affected by HIV/AIDS, but to prevent further infections of HIV within the area of responsibility at Touching Nations.

1.1 Objectives

The objectives of this policy are as follows:

- Raise awareness of the Human Immunodeficiency Virus (HIV) and the Acquired Immunodeficiency Syndrome (AIDS).
- Ensure a better understanding of HIV and AIDS inside and outside the Touching Nations.
- Seek to minimize the socio-economic and developmental effect HIV/AIDS has on all.
- Where possible, prohibit unfair discrimination on the basis of HIV/AIDS status.
- Promote an environment in which people living with HIV/AIDS can be open about their status without fear of stigma or rejection.
- Promote and maintain a humane and compassionate attitude to those employees infected and affected by HIV/AIDS.
- Develop proactive health education guidelines and programs designed to both limit the further spread of HIV/AIDS and provide support for those affected by it.

1.2 Applicability

The policy applies to all those who exercise ministry towards sufferers and those infected of Touching Nations and in the case of HIV testing and confidentiality, to all prospective members.

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2. GUIDING PRINCIPLES

Touching Nations's HIV/AIDS policy is within the framework of relevant South African legislation (see Legal Framework below). The guiding principles and procedures of Touching Nations's HIV/AIDS policy are as follows:

2.1 Medical Testing

Touching Nations supports voluntary testing and therefore, will not at any point require existing employees, members and prospective members to be screened or tested for HIV/AIDS.

2.2 Confidentiality

Touching Nations will strictly uphold the confidentiality of all information on the HIV status and condition of all. Therefore, Touching Nations will ensure that all information relating to an employee's status, counselling, treatment and receipt of benefits is kept confidential, unless disclosure is legally required.

People are not required to disclose their HIV status to Touching Nations. However, employees who allege incapacity on the grounds of illness will be required to furnish Touching Nations with a medical report on their incapacity to do their current job.

Touching Nations will strive to create a climate that will allow for, and encourage, voluntary disclosure of an individual's positive HIV status.

Should members decide to voluntarily disclose their HIV status in confidence to any Touching Nations employee or members, it is expected that that the principle of confidentiality of such disclosure will be adhered to.

No information regarding an employee's HIV status will be disclosed without his / her written consent.

Any breach of confidentiality on the part of members who have been entrusted with, or who have access to confidential information about another person's HIV/AIDS status, which has been obtained in the scope of their dealings with Touching Nations, will result in the initiation of the disciplinary procedure.

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2.3 Non-Discrimination

Employees at Touching Nations with HIV/AIDS will be subject to the same contractual obligations and employment policies and procedures as other employees.

HIV status will not be a factor in career or development opportunities. Employees with HIV/AIDS will be governed without discrimination by existing sick leave practices and procedures. HIV/AIDS will not prejudice their entitlement to such leave.

An employee will not be dismissed merely on the basis of HIV status. HIV status cannot be used as a selection criterion in a retrenchment exercise.

Disciplinary action will be instituted against any employee or member who refuses to work with an employee on the grounds of his/her real or perceived HIV status. Touching Nations will consider any such refusal as misconduct.

2.4 Occupational Benefits

Touching Nations is committed to providing occupational benefits that are non-discriminatory, sustainable and supportive of all employees.

2.5 Reasonable Accommodation

Touching Nations acknowledges that continued employment for employees with HIV may sometimes be therapeutic and may help to prolong life. Therefore, Touching Nations adopts the principle of reasonable accommodation. Under this principle, employees with HIV/AIDS will be free to continue with their work responsibilities if they are able to maintain an acceptable level of performance, and pose no health risk to themselves or to their co-workers. Recognising the seriousness and severe economic, social and psychological impact on the employee and his / her family, the Touching Nations will endeavour to exercise consideration that will enable employees to better cope with these challenges. The extent to which the Touching Nations is able to accommodate employees will be determined on a case-by-case basis and will be influenced by the nature of the ministry or work. Leadership discretion will be applied in this regard.

2.6 Education

Touching Nations believes that education and information are essential to prevention and treatment of HIV/AIDS. Thus, it will endeavour to provide relevant education on AIDS prevention, care and support.

3. LEGAL FRAMEWORK

This policy shall be read in conjunction with the Constitution of South Africa, Act No. 108 of 1996 and other relevant legislation, which includes the following:

3.1 The Constitution, 1996 (Act No. 108 of 1996)

The Bill of Rights provides every person with the right to equality and non-discrimination, privacy and fair labour practice. In particular the right to privacy implies an employee's right to confidentiality regarding medical information, including HIV status.

3.2 Employment Equity Act, 1998 (Act No. 55 of 1998)

This Act aims to promote equal opportunity by eliminating unfair discrimination directly or indirectly, against an employee in any employment policy or practice, including discrimination on the grounds of HIV status. The Act states that it is not unfair discrimination to exclude a person on the basis of an inherent requirement of the job.

3.3 Labour Relations Act, 1995 (Act No. 66 of 1995)

The Act protects employees against arbitrary dismissal. A dismissal is only fair if it is related to an employee's conduct or capacity or it is based on operational requirements. The implication of the Act regarding HIV is that an employee cannot be dismissed solely because he/she is HIV positive.

3.4 Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)

The Act requires that the employer create a safe working environment for employees, as far as is reasonably practical. The implication of the Act regarding HIV is that the employer needs to ensure that the risk of possible infection in the workplace is minimized.

3.5 Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997)

The Act sets out the minimum employment standards for working hours; leave etc. The implication of the Act for HIV is that an employer needs to establish policies regarding extended sick leave and leave of absence for other reasons.

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4. RESPONSIBILITY

4.1 Members and employees:

Members and employees are responsible for adhering to this policy. They are further responsible for ensuring that they are informed about HIV/AIDS, for protecting themselves and their families and seeking counselling in case of uncertainty. All are expected to conform to the principle of confidentiality outlined in this policy with respect to information relating to HIV/AIDS status.

4.2 Administration Office:

The Administration Office is responsible for monitoring the implementation of this policy and for initiating any appropriate action. The Administration Office will ensure that any information pertaining to a member or employee's HIV/AIDS status that is entrusted it is kept confidential. The Administration Office is further responsible for implementing an HIV/AIDS education and support program. They will be responsible for monitoring any developments concerning knowledge of HIV/AIDS and the treatment thereof and modifying this policy accordingly.

5. INPUTS

5.1 References

The following documents are referenced from this procedure:

The Constitution, 1996 (Act No. 108 of 1996)

Employment Equity Act, 1998 (Act No. 55 of 1998)

Labour Relations Act, 1995 (Act No. 66 of 1995)

Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)

Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997)

5.2 Forms Used

None

6. PROCEDURE

6.1 Medical Testing

Those who wish to determine their HIV/AIDS status may arrange to be tested voluntarily, subject to the completion of informed consent documentation and pre- and post-test counselling at their own expense.

6.2 Confidentiality

The HIV status of any individual will be kept strictly confidential. Medical records of those with HIV will be considered as confidential information.

Access to such information is strictly limited and may be disclosed only if legally required and with the written consent of the person concerned.

6.3 Voluntary Disclosure

Any member or employee who is infected with the HIV virus or suffers from AIDS is not obliged to inform the Touching Nations.

If any member or employee discloses to a spiritual leader, lay counsellor or the staff of the Touching Nations information on his/her physical condition, such as HIV/AIDS:

- o The spiritual leader, lay counsellor or the staff of the Touching Nations will be supportive and listen to the member or employee, noting key concerns and schedule a follow-up meeting.

Other members and co-workers will not be asked to reveal personal information about fellow members or co-workers.

6.4 Non-discrimination Grievance and Disciplinary Procedures

Where a member or an employee perceives discrimination to be occurring as a result of his/her HIV/AIDS status, that individual shall have recourse to a grievance procedure.

Touching Nations will take the corrective and disciplinary action necessary against members and employees found to be involved in the stigmatisation, harassment or discrimination against others directly or indirectly affected with HIV/AIDS. It is not acceptable that members, staff or co-workers refuse to work with an infected person. Should any, after reassurance and with all appropriate safety and health precautions being taken, remain unwilling to work with a HIV positive person and this refusal affects their work performance, they will be warned that their reaction is unreasonable and unjustified, that their own service situation is in jeopardy, and that disciplinary steps may be taken against them.

6.5 Occupational Benefits

Touching Nations will continue to treat HIV/AIDS in the same manner with which other illnesses have been treated in terms of employee benefit policies, leave of absence and other related disability benefits.

6.6 Reasonable Accommodation and Job Security

The Touching Nations will not dismiss a person purely on the basis of his/her HIV/AIDS status. Staff and members who are HIV positive but healthy, are free to continue to serve and work and will be treated like any other with regard to training, promotion and discipline.

Where possible, Touching Nations will take measures to extend reasonable accommodation to those with HIV/AIDS related illnesses. It must be emphasised, that the principle of reasonable accommodation can only be applied if operational requirements permit and will be determined on a case-by-case basis at leadership's discretion.

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Provisions under the existing Touching Nations policies and procedures regarding sick leave and impairment/disability will be applicable as instituted in instances of chronic ill health.

6.7 Education and Training

The Touching Nations will initiate basic HIV/AIDS training to inform, educate and train all related workers about HIV/AIDS prevention, care and support and the Touching Nations's policy on HIV/AIDS.

The Touching Nations's HIV/AIDS training will include measures to reduce discrimination and stigmatisation against people living with or affected by HIV/AIDS and advice on member and staff benefits and entitlements.

Where appropriate, the Touching Nations will encourage and facilitate use of voluntary HIV/AIDS testing and counselling services.

6.8 Counselling

The Touching Nations will make available supplementary information and education programs to all. Touching Nations will also seek assistance from established community support and counselling groups.

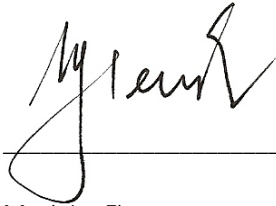
6.9 Policy Review

This is intended to be a dynamic policy, which will of necessity, be reviewed and amended in accordance with changing circumstances and the increase of knowledge and experience in this field.

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7. ACKNOWLEDGEMENT

This policy is endorsed by:



Mark Le Fleur

(in his / her capacity as Director) on **17th April 2007**