

Medical Testing and HIV/AIDS Policy

01/09/2026

1. Purpose

This policy only applies to **Gordons Bay Security (Pty) Ltd** employees. The aim of this policy is to:

- a) Eliminate unfair discrimination and stigma in the workplace based on real or perceived HIV status, including dealing with medical/HIV testing, confidentiality and disclosure;
- b) Promote access to education , equitable employee benefits and employment protection;
- c) Manage grievance procedures in relation to HIV and AIDS and other life threatening diseases;
- d) Create a safe and healthy working environment;
- e) Promote appropriate and effective ways of managing HIV/AIDS and other life threatening diseases in the workplace;

2. Definition

Medical testing includes any test, question, inquiry or other means designed to ascertain or which has the effect of enabling the employer to ascertain, whether an employee has any medical condition.

3. Non-discrimination

In accordance with legislation, HIV positive employees will not be discriminated against unfairly, and such employees would follow the normal grievance procedure should they feel that this has occurred. HIV/AIDS will be treated in the same way as other life-threatening diseases. However, the stigma, magnitude and growing incidence of HIV/AIDS epidemic means that it is necessary to focus more awareness, at this time, on HIV/AIDS than other life-threatening diseases.

Potential employees will not be tested for HIV/AIDS as a condition of employment or be refused employment on account of their HIV status.

No employee may refuse to work with a colleague who is HIV positive or suffering from any other life-threatening disease if the affected employee poses no risk to the health of the objecting employee.

4. Policy Statement

- a) Section 4 of the Employment Equity Act 55 of 1998 stipulates that medical testing of an employee is permissible only when legislation requires testing or when this

is justifiable in the light of:

- medical facts;
- employment conditions;
- social policy;
- the fair distribution of employee benefits; or
- The inherent requirement of the job.

- b) HIV Testing is prohibited unless such testing is determined to be justifiable by the Labour Court;
- c) Authorization for mandatory HIV testing of workers may only be obtained from the Labour court in terms of Section 7(2) of the Employment Equity Act;
- d) Mandatory Testing for HIV is not a requirement in the world of work, including in the following circumstances:
 - During an application or employment
 - As a condition of employment
 - During procedures related to termination of employment; and
 - As an eligibility requirement for training or staff development programmes
- e) Anonymous, unlinked surveillance or epidemiological HIV testing in the workplace may occur provided it is undertaken in accordance with ethical and legal principles. The information obtained will not be used to unfairly discriminate against workers. Testing will not be considered anonymous if there is a reasonable possibility that a worker's HIV status can be deduced from the results.

5. Right to withhold information

- a) No employee is obliged to reveal his/her HIV status;
- b) Employees should inform the company once they can no longer perform their duties as a result of their disease in order to avoid possible inappropriate disciplinary action.

6. Confidentiality and disclosure

- a. All persons, including those with HIV and AIDS or other life-threatening diseases

have the legal right to privacy. A worker is therefore not legally required to disclose this or her HIV status or related medical information to his or her employer or to other workers;

- b. The results of HIV/medical testing must be confidential and not endanger access to jobs, tenure, job security or opportunities for advancement;
- c. Where a worker chooses to voluntarily disclose his or her HIV/other medical status to the employer or to other workers, this information must not be disclosed to others without the worker's express written consent. Where written consent is not possible, steps must be taken to confirm that the worker wishes to disclose his HIV/other medical status;
- d. Mechanisms will be created to encourage openness, acceptance and support for those employers and workers who wish to voluntarily disclose their HIV/other medical status in within the workplace;
- e. Access to personal data relating to the worker's HIV/other medical status and related medical data will be bound by the rules of the confidentiality consistent with the relevant national laws.

7. Education

- a. Employees will be given access to appropriate education or counselling on the prevention and management of HIV/AIDS and other life-threatening diseases.
- b. Training, safety instructions and any necessary guidance in the workplace related to HIV and AIDS will be provided in a clear and available form for all workers;

8. Counselling and informed consent

- c. Medical/HIV testing will be provided with informed consent and proper counselling. **Gordons Bay Security (Pty) Ltd** will ensure a conducive environment for counselling, where employers or workers facilitate provision of medical/HIV testing facilities.
- d. Pre-test counselling will take place prior to a worker being tested to determine his or her medical/ HIV status;

Post-test counselling will take place to determine whether a worker has tested negative or positive. Proper procedures will be followed in advising the worker on the next steps, depending on the medial/HIV test result;

- e. Information about the arrangements for feedback and confirmation of who will be

party to the results and details of how the results will be stored/for how long will also be provided;

- f. Informed consent will be given to the applicant/candidate making sure that they understand why the test will be done, what will be done with their results and who will be provided with access to them;
- g. **Gordons Bay Security (Pty) Ltd** will not force a worker or an applicant for employment to undertake an HIV test in order to ascertain that worker's HIV status, testing must be with consent, voluntary and justifiable by the Labour court.

9. Reasonable Accommodation

- a. Section 15(2)(c) of the Employment Equity Act requires employers to provide reasonable accommodation for all workers, including persons living with HIV and AIDS, in order for them to access and enjoy equal employment opportunities;
- b. The obligation to make reasonable accommodation may arise where a worker voluntarily discloses his or her HIV/other medical status;
- c. **Gordons Bay Security (Pty) Ltd** will also accommodate workers when the work environment changes or impairment varies which affects the worker's ability to perform the essential functions of the job;
- d. Reasonable accommodation that **Gordons Bay Security (Pty) Ltd** will consider and provide includes but is not limited to:
 - Adapting existing facilities to make them accessible;
 - Adapting existing equipment or acquiring new equipment including computer hardware and software;
 - Re-organizing workstations;
 - Changing training and assessment materials and systems;
 - Restructuring working time and leave; and
 - Providing specialised supervision, training and support in the workplace.

10. Employee Benefits

- a) **Gordons Bay Security (Pty) Ltd** will not unfairly discriminate against workers with HIV and AIDS in the allocation of employee benefits;
- b) **Gordons Bay Security (Pty) Ltd** offers a medical benefit, and will ensure that this benefit does not unfairly discriminate, directly or indirectly, against any worker on the basis of his or her real or perceived HIV/other medical status;

- c) **Gordons Bay Security (Pty) Ltd** will ensure that there are no unfair

discrimination against workers or their dependants based on real or perceived HIV/other medical status to access social security systems and occupational insurance schemes or in the relation to benefits under such schemes, including health care and disability, death and survivors benefits.

11. Termination of Employment

Gordons Bay Security (Pty) Ltd will:

- a) Not deny any worker with HIV-related illness the opportunity of continuing to carry out their work;
- b) explore alternatives, including reasonable accommodation and redeployment where a worker has become too ill to perform his or her current work;
- c) follow accepted guidelines regarding dismissal for incapacity before terminating a worker's services, as set out in the Code of Good Practice on Dismissal contained in Schedule 8 of the Labour Relations Act, where a worker has become too ill to perform his or her current work;
- d) Ensure that as far as possible, the workers right to confidentiality regarding his HIV/other medical status is maintained during any incapacity proceedings. A worker will not be compelled to undergo an HIV test or to disclose his or her HIV status as part of such proceedings unless the Labour Court has authorized such a test.

12. Authorisation

Top Management has the authority to approve changes or exceptions to this policy at any time with or without notice, provided that such changes are in compliance with legal or regulatory requirements and other policy guidelines.

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