



**HIV & AIDS POLICY**

Policy Owner:	Bottle Buhle Brands (Pty) Ltd		
Effective Date:	8 <sup>TH</sup> OCTOBER 2023		
Authorised by:	CEO		08/10/2023
		Signature	Date
Note:	Bottle Buhle Brands (Pty) Ltd reserves the right to amend the contents of this policy as and when required. The policy currently in effect will apply to all employees regardless of the policy that applied at the time of employment.		

**1. Scope /objective of the policy**

The objective of the policy on HIV/AIDS is to set guidelines to ensure that:

- 1.1 People with HIV/Aids are not unfairly discriminated against;
- 1.2 HIV/Aids is effectively managed within the workplace by:
  - 1.2.1 Creating a safe working environment for all Employees;
  - 1.2.2 Introducing measures to prevent the spread of HIV;
  - 1.2.3 Developing strategies to assess and reduce the impact of the pandemic;
  - 1.2.4 Supporting those individuals who are infected or affected by HIV/Aids so that they may continue to work productively for as long as possible; and
  - 1.2.5 Creating a non-discriminatory environment for those living with HIV/Aids in the workplace to allow them to be open about their HIV/Aids status without the fear of being rejected or unfairly discriminated against.

**2. Definitions**

- 2.1 **'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.
- 2.2 **'HIV'** is the acronym for "human immune deficiency virus". HIV is a virus which attacks and may ultimately destroy the body's natural immune system.
- 2.3 **'HIV Testing'** 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.

### 3. Legal principles

The following sources of information are applicable to this policy:

- 3.1 The Constitution of the Republic of South Africa, Act 108 of 1996;
- 3.2 Employment Equity Act, Act 55 of 1998;
- 3.3 Labour Relations Act, Act 66 of 1995;
- 3.4 Occupational Health and Safety Act, Act 85 of 1993;
- 3.5 Compensation for Occupational Injuries and Diseases Act, Act 130 of 1993;
- 3.6 Basic Conditions of Employment Act, Act 75 of 1997;
- 3.7 Code of Good Practice on Integration of Employment Equity into Human Resources Policies and Procedures; and
- 3.8 Code of good practice on key aspects of HIV/Aids and Employment.

### 4. Policy

- 4.1 All Employees, job applicants and other persons, who have dealings with Botle Buhle Brands, have the right to be treated with dignity and have the right to privacy concerning their HIV/Aids status.
- 4.2 Botle Buhle Brands commits to a non-discriminatory work environment.
- 4.3 Botle Buhle Brands promotes the creation of a supportive environment where Employees with HIV/Aids can continue working under normal circumstances in their current employment for as long as they are medically fit to do so.
- 4.4 No Employee will be unfairly discriminated against within any employment policy or practice, including:
  - 4.4.1 Recruitment procedures, advertising and selection criteria;
  - 4.4.2 Appointments;
  - 4.4.3 Job classification or grading;
  - 4.4.4 Remuneration, employment benefits and terms and conditions of employment;
  - 4.4.5 Job assignments;
  - 4.4.6 The workplace and facilities;
  - 4.4.7 Occupational health and safety;
  - 4.4.8 Training and development;

- 4.4.9 Performance and evaluation system;
  - 4.4.10 Promotion, transfer and demotion;
  - 4.4.11 Disciplinary measures short of dismissal; and
  - 4.4.12 Termination of service.
- 4.5 Botle Buhle Brands will protect infected Employees as far as possible in order to avoid victimisation.
- 4.6 Botle Buhle Brands will **not** require an Employee or an applicant for employment to undergo HIV/Aids testing in order to ascertain the person's HIV/Aids status. However, it might be required for an Employee to undergo a HIV/Aids test for insurance and/job specific purposes, based on the inherent requirements of the position. Such tests are done on a voluntarily basis.
- 4.7 Botle Buhle Brands respects HIV/Aids infected people's rights to privacy and understands that these Employees are not legally required to disclose their HIV/Aids status.
- 4.8 Botle Buhle Brands will, however, take reasonable steps to encourage openness in this regard and to encourage people to voluntarily disclose their HIV/Aids status in order to protect all parties involved.
- 4.9 Employees who need assistance/counselling in this regard are encouraged to approach the direct Manager/HR Department in order for arrangements to be made.
- 4.10 Grievances concerning HIV/Aids will be dealt with according to Botle Buhle Brands grievance procedure.
- 4.11 Botle Buhle Brands will place emphasis on balancing the rights of all parties involved when faced with issues of HIV/Aids in the workplace:
- 4.11.1 Protecting the rights of Employees with HIV/Aids. In accordance with Section 187(1)(f) of the Labour Relations Act, No. 66 of 1995, an Employee with HIV/AIDS may not be dismissed simply because he or she is HIV positive or has AIDS. However where there are valid reasons related to their capacity to continue working and fair procedures have been followed, their services may be terminated in accordance with Section 188(1)(a)(i).
  - 4.11.2 Protecting the rights of all Employees within the workplace. In terms of Section 8(1) of the Occupational Health and Safety Act, No. 85 of 1993; an Employer is obliged to provide, as far as is reasonably practicable, a safe

workplace. This may include ensuring that the risk of occupational exposure to HIV is minimised.

- 4.11.3 Protecting the privacy of Employees with HIV/Aids. In accordance with both the common law and Section 14 of the Constitution of South Africa Act, No. 108 of 1996, all persons with HIV or AIDS have a right to privacy, including privacy concerning their HIV or AIDS status. Accordingly there is no general legal duty on an Employee to disclose his or her HIV status to their Employer or to other Employees.

## **5. Procedure**

- 5.1 Employees may contact the People Department for assistance/counselling for HIV/Aids and/or related matters.
- 5.2 Where an Employee chooses to voluntarily disclose his/her HIV/Aids status to the Employer or to other Employees, this information may not be disclosed to others without the Employee's express written consent.
- 5.3 Where written consent is not possible, steps must be taken to confirm that the Employee wishes to disclose his or her status.

## **6. Related policies & procedures**

- 6.1 Workplace Bullying and Harassment Policy
- 6.2 Training and Development Policy.
- 6.3 Promotion Policy.

## **7. Related documents**

N/A