



EMPLOYMENT EQUITY POLICY

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1. DEFINITIONS

“Affirmative action measures” means measures designed to ensure that suitably qualified people from designated groups have equal employment opportunities and are represented in all occupational levels in the workforce of the Overberg District Municipality. Such measures include the preferential handling of designated groups.

“Black people” is a generic term meaning African, Coloured and Indian persons.

“candidate” means an applicant for employment.

“Code of good practice” means a document issued by the Minister of Labour in terms of section 54 of the Employment Equity Act 55 of 1998.

“Collective agreement” means a written agreement concerning terms and conditions of employment or any other matter of mutual interest concluded by or in terms of the South African Local Government Bargaining Council (SALGBC).

“Designated group” means black people, women and people with disabilities who –
are citizens of the Republic of South Africa by birth or descent or became citizens of the Republic of South Africa by naturalisation – before 2 April 1994; or after 26 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date but who were precluded by apartheid policies.

“Disadvantaged persons” means persons or categories of persons disadvantaged by past or present unfair discrimination.

“dispute” includes an alleged dispute.

“People with disabilities” means people who have a long-term or recurring physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may substantially limit their prospects of entry into, or advancement in, employment.

“Suitably qualified person” means a person who has the abilities, formal qualifications, relevant experience or potential to acquire, within a reasonable time, the skills, and competencies necessary to perform a particular job.

“Consultation” means on-going interaction between all relevant stakeholders, within appropriate structures as referred to in the labour relations and employment equity, with an intention to reach consensus.

“Diversity” means any way in which individuals or groups differ from one another, including but is not limited to cultural values, interests, traditions, languages, religion and preferences.

“EAP” means the Economically Active Population (EAP) includes people from 15 to 64 years of age who are either employed or unemployed and seeking employment.

“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.

“Suitably qualified” a person may be suitably qualified for a job as a result of any one of or any combination of that person’s – formal qualifications, prior learning, relevant experience or capacity to acquire, within a reasonable time the ability to do the job.

“Workforce profile” means the profile which shows the number of staff members in terms of race, gender, nationality and occupational levels.

2. STRUCTURE OF THE PLAN

This document is the Employment Equity Plan of the Overberg District Municipality. It contextualizes our approach and philosophy regarding Employment Equity, sets out the Employment Equity plan, and details the implementation process followed up to date, and still to be followed during the course of the plan.

3. PREAMBLE

The Overberg District Municipality recognises the injustices of the past and is committed to achieve the purposes of the Employment Equity Act 55 of 1998, Chapter III, section 20(1). The Overberg District Municipality shall implement comprehensive employment equity measures to redress historic and existing inequalities, imbalances, prejudices and injustices in the workplace by:

- to provide opportunities for all employees to grow, develop and be promoted on merit, while taking into consideration the employment equity needs of the municipality;
- to accommodate the disabled where possible;
- to provide opportunities for all employees;
- ensuring equal employment opportunity practices;
- enforcing the right of fundamental equality and opportunity between men and women in employment as well as the right of every person to be protected against employment discrimination on the grounds of race, gender, sexual orientation, pregnancy, family responsibility, HIV status, ethnic or social origin, colour, age, culture, religion, conscience, belief, birth, political opinion, language, marital status, disability or economic status; and
- committing itself to a consultative process of implementing affirmative action and employment equity to redress past imbalances and identifying the skills across the various occupational categories required in the future to ensure the attainment of a socially responsible, efficient and racially integrated workforce, representative and sensitive to the needs of the community.

4. PURPOSE

The purpose of this Employment Equity Policy is to provide:

- i. A framework for implementing the purpose of the Employment Equity Act 55 of 1998
- ii. A framework for implementing and monitoring Affirmative Action measures promoting fair treatment in employment, equal opportunity and redress barriers experienced by designated groups in employment.

- iii. A basis for promoting equality, diversity, and transformation through elimination of unfair discrimination and empowerment of designated groups to reflect the Overberg District Municipality demographics. To this extent the Municipality commits itself to a recruitment and selection process that is fair, non-discriminatory, and accessible thereby enabling a representative workforce.

5. OBJECTIVES OF THE POLICY

- To address under-representation of designated groups in all occupational categories and levels in the workforce.
- Identify and develop strategies for the elimination of employment barriers in the employment policies and practices of the Overberg District Municipality
- Developing strategies for the achievement of numerical goals and timetables for the implementation of affirmative action measures, considering the vision and mission of Overberg District Municipality.
- Establishing procedures for the monitoring and enforcement of the implementation process
- Establishing procedures to address and resolve disputes regarding the implementation and enforcement of Employment Equity Plan.
- To transform the Overberg District Municipality as far as possible into an equal opportunity organization by employing a workforce that shall reflect the demographic profile and Economically Active Population of the Overberg municipal area.
- Promote openness and transparency in the consultation process relating to employment equity, as contemplated in the Employment Equity Act 55 of 1998.

6. EMPLOYMENT EQUITY VALUES

The successful implementation of equity and attainment of equality will be guided by the following values:

- Redress of past imbalances;
- Development and implementation of an Employment Equity Plan that is in line with the "SMART" principles;
- Participatory management of change: efficiency and effectiveness characterised by high quality standards, performance and professional ethics;
- Partnership, cooperation and meaningful, effective consultation with all relevant stakeholders;
- Creation of a climate conducive to transformation and change;
- Embracement and celebration of diversity; and
- Compliance with applicable legislation of Republic of South Africa.

7. LEGISLATIVE FRAMEWORK

Constitution

The South African Constitution asserts that employment equity is necessary to ensure equality. Section 9(2) of the constitution provides that:

"Legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken. "

Labour Relations Act - Schedule 7 of the Labour Relations Act No 66 of 1995 stipulates that:

"An employer is not prevented from adopting or implementing employment policies and practices that are designed to achieve the adequate protection and advancement of persons or groups or categories of persons disadvantaged by unfair discrimination"

Employment Equity Act

Section 2 of the employment equity act no 55 of 1998 (EEA) sets out the purpose of the act are to achieve equity in workplace by:

"Promoting equal opportunity and fair treatment employment through the elimination of unfair discrimination; and implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups in all occupational levels of the workforce."

Unfair Discrimination:

"Section 6 of the employment equity act no 55 of 1998 (EEA) states that no person may unfairly discriminate, directly or indirect, against an employee in any employment policy or practice, on one or more grounds, including race gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscientious belief, political opinion, language, birth or any other arbitrary ground. (herewith some examples) - unfair discrimination can take many forms" For example, where an employee is unnecessarily side-lined because he/she is disabled, this could be unfair discrimination. If an employee is sexually harassed this is a form of unfair discrimination based on sex. If a worker is paid less than his/her colleagues because he is male, or she is female this would constitute prohibited gender discrimination. Age can also be grounds for unfair discrimination, there are two forms of discrimination related to 'unfair discrimination', namely—

- Direct discrimination; and
- Indirect discrimination.

Direct discrimination: Is easily identifiable and involves overt differential treatment between employees and job applicants on the basis of arbitrary grounds. For example, an employer follows a policy of remunerating a female employee on a lower scale simply because she is a woman, whereas a male employee is remunerated at a much higher scale for doing the same work.

Indirect discrimination: On the other hand, is not as easily recognizable as it is a more subtle form of discrimination. It involves the application of policies and practices that are apparently neutral and do not explicitly distinguish between employees and job applicants but that, in reality, have a disproportionate and negative effect on certain individuals or groups. The laws also emphasize that;

- Sexual harassment will be prohibited;
- Medical testing will not be allowed unless it is an inherent requirement of the job;
- Psychological testing or other assessment cannot be done unless such tests are validated and will not be biased;
- In addition, HIV testing can only be carried out if authorized by the labour court; and
- All these protections also apply to applicants for employment.

Fair discrimination

The law sets out four grounds on which discrimination is generally allowed:

- Discrimination based on affirmative action;
- Discrimination based on inherent requirements of a particular job;
- Compulsory discrimination by law; and
- Discrimination based on productivity.

Discrimination based on affirmative action

Affirmative action measures are designed to promote employment equity (fairness in favour of the designated groups - blacks, women and disabled persons). Affirmative action aims to achieve equality at work without lowering standards and without unduly limiting the prospects of existing employees, for example by getting rid of discrimination in company policies, procedures and practices. Its main aim is generally to ensure that the previously disadvantaged groups are fairly represented in the workforce of a particular employer.

Discrimination based on inherent requirement of a job

Any discrimination based on the inherent requirement of the particular job does not constitute unfair discrimination. An inherent requirement of a job depends on the nature of the job and required qualifications. If such requirements can be shown, discrimination will be fair, for example a person with extremely poor eyesight cannot be employed as an airline pilot.

Fair compulsory discrimination by law

The law does not allow the employer to employ children under the age of 15 years, or pregnant women four weeks before confinement and six weeks after giving birth.

Discrimination based on productivity

It is also fair by law for the employer to discriminate on the basis of productivity when giving an increase, for example increases based on merit. This, of course, would be dependent on the fairness of the criteria utilized for assessing performance and productivity.

8. SCOPE OF APPLICATION

This policy applies to the Overberg District Municipality, all its employees and the candidates who apply for employment within the Overberg District Municipality, including designated group and non-designated groups.

9. CONTEXTUAL POSITION

The responsibility for implementing affirmative action measures and ensuring compliance with the provisions of the Employment Equity Act 55 of 1998 rests with the Municipal Manager or his / her delegated assignee(s). Affirmative Action (AA) measures have been identified and developed to address employment barriers and underrepresentation identified during the analysis and review of employment policies, practices, procedures and the working environment of the Municipality. The measures relate to, but are not limited to the following:

- **Affirmative Action Measures**

- **Increasing the pool of available candidates**

A policy on recruitment has been adopted which provides for the internal and external recruitment of suitable candidates from designated groups. A concerted effort will further be made to increase the level of interest of potential candidates from designated groups in

applying for vacancies. The appointment of interns/students/temporary workers within underrepresented groups may ensure a permanent representative workforce in future.

➤ ***Appointment of employees from designated groups***

Existing policies have been scrutinised to identify employment barriers to members of designated groups. Appointment and selection policies should increase the possibility of appointing candidates from designated groups in employment categories and levels where they are underrepresented. This would include transparent, fair and unbiased selection criteria. These would help contribute to the appointment of suitable candidates from designated groups. Further efforts will include:

- The review of employment application forms and contracts so that all discriminatory or prejudicial provisions and clauses are removed.
- Increased awareness that psychometric tests and evaluation methods tend to be culturally biased and discriminatory and have low predictive validity of true ability of candidates to perform in a work environment.
- The use of competency-based recruitment and selection methods whereby the potential of the candidate and the ability to perform the job plays an increasingly prominent role.
- Compliance with numerical targets
- The advancement of designated groups, bearing in mind that the Municipality will not resort to window-dressing, tokenism, and favouritism.
- Recognising that the appointment of members of designated groups will help create a more diverse workforce, which holds social and economic benefits for the Municipality.

➤ ***Training and development of people from designated groups***

Training, within available means and resources, should be provided to members of designated groups where particular skills do not exist. The Municipality recognises the obligations placed on it by the Skills Development Act 97 of 1998 to train and develop employees and has adopted structured training programmes for employees. These programmes could include:

- Bursaries for secondary and tertiary education;
- Job-related training;
- Training in line functioning, management, and supervisory skills;
- Learnerships;
- Internship;
- Coaching;
- Mentorship or mentoring programmes or mentorship;
- Skills programmes; and
- Diversity management or diversity training.

Access to training by members of designated groups, including accelerated training for new recruits is, within the available means and resources, necessary since their development is seen as a long-term upliftment measure against a temporary corrective measure. The eventual

goal is the outcome-based nature of the training provided and the purpose of the training to accelerate the advancement of designated groups within the Municipality.

- **Retention of people from designated groups**

The Municipality is committed to lowering workforce turnover rates and increasing retention rates of designated groups by conducting and considering a labour turnover analysis. Accordingly, the Municipality has adopted a new policy regarding exit interviews in order to enable the Municipality to develop further strategies regarding the retention of people from designated groups by determining the reasons why people from designated groups terminate their services with the Municipality. Additionally, the Municipality should conduct regular assessment of staff morale by means of climate surveys. These tactics will enable the Municipality to compete successfully with other employers in an effort to obtain and retain the services of people from designated groups.

- **Reasonable accommodation for people with disabilities**

The Municipality recognises reasonable accommodation measures for people with disabilities, with specific reference to adapt physical facilities that will be implemented gradually and progressively within available means and resources. This would form part of an enabling environment for people with disabilities to participate fully within the working environment and improve municipal productivity.

Special attention will be given to the employment and career development of people with disabilities.

- **Meaningful participation in strategic decision-making processes**

The Municipality should ensure that candidates from designated groups have the opportunity to be appointed and promoted in positions where they will be able to participate meaningfully in the decision-making processes of the Municipality. The recruitment policy regime would require candidates to be suitably qualified for positions into which they will be appointed in accordance with the Employment Equity Act 55 of 1998. A conscious effort should be made to avoid all forms of tokenism.

- **Steps to ensure that the corporate culture of the past is transformed in a way that affirms diversity in the workplace and harness the potential of all employees**

The Municipality also recognises the importance of managing a diverse, multiracial and multicultural workforce for the purposes of ensuring the maximum utilisation of all employees. This includes reducing negative stereotyping and discrimination, creating an acceptable and welcome environment, and the integration of affirmative action programmes with general management practices and strategies to the extent of sensitising employees with regard to grounds of discrimination such as race, diversity, gender, disability and religious accommodation.

- **Corrective Measures to Eliminate Barriers Identified During the Analysis**

Employment policies and practices are continuously reviewed by the Municipality in order to remove any possible discriminatory content, to eliminate employment barriers from the

policies and practices, and to allow for the definition of suitably qualified candidates as contained in the Employment Equity Act 55 of 1998 to serve as standard for selection. The affirmative action measures implemented at the Municipality are designed to prevent the creation of absolute barriers for the appointment or promotion of persons from non-designated groups, and care is taken to ensure that the measures adopted do not discriminate in any way against persons from the non-designated groups.

- **Numerical Goals**

A numerical analysis shall be carried out to determine the representation of employees in every employment level and job category. This analysis will enable the Municipality to set quantitative targets which are realistic and attainable given the particular circumstances of the Municipality as an employer. Numerical goals shall be developed for the appointment and promotion of people from designated groups in order to address under-representation of designated groups, thereby increasing their representation in each occupational category and level in the municipal workforce and to make the workforce reflective of the relevant. Municipal demographics. The following factors shall be taken into consideration in developing the numerical goals:

- The degree of under-representation of designated employees in the various employment categories at the Municipality as determined by the numerical analysis;
- Current and planned vacancies;
- The pool of suitably qualified persons from designated groups, from which the employer may be reasonably expected to draw for recruitment purposes;
- The labour turnover rate at the Municipality must be determined to guide the implementation rate of affirmative action measures and the setting of numerical goals; and
- Other factors as contained in Item 8.4 of the Code of Good Practice.

- **Consensus**

The representative unions and the management structures of the Municipality must be involved in the consultation process surrounding the numerical analysis, the review of employment systems and policies and the drafting of the Employment Equity Plan. Parties should strive to reach consensus during the consultation process. Workshops, attended by representative trade unions and management, may be held to *inter alia* inform and educate all parties as to the process to be followed and the roles to be played.

- **Employment Equity Consultation Forum and Composition**

Regard being given to Item 7.2.8 of the Code of Good Practice: Employment Equity Plans, an Employment Equity Consultative Forum shall be established to consider progress reports and meet on a regular basis. Such meetings should take place at reasonable intervals in order to ensure feedback and inform ongoing implementation. The forum shall be constituted as follows:

- All Directors.
- trade unions representatives nominated by the trade unions; (IMATU and SAMWU); and
- Employees from both designated groups and non-designated groups across all occupational categories and levels of the workforce. The Municipal Manager shall ensure representation and appointment of employees from all these designated groups, occupational categories and levels.
- Overberg District Municipality Management
- Overberg District Municipality Councillors

10. IMPLEMENTATION, MONITORING AND EVALUATION

Consonant with section 20 of the Employment Equity Act 55 of 1998, the Overberg District Municipality shall prepare and implement an Employment Equity Plan (EE Plan) in order to achieve reasonable progress towards employment equity within the workforce.

The Department Human Resources shall monitor and evaluate a human resources database and track trends in promotion, recruitment, exits, staff profiles, training and development.

A report detailing the identification and analysis of employment barriers of designated groups, progress with the implementation of employment equity, with specific reference to achievement of numerical goals, has to be compiled as and when required and discussed with the relevant stakeholders, in particular the organised labour.

A report regarding preparation, development of and consultation around the Employment Equity Plan of Overberg District Municipality is to be compiled. There must be meaningful consultation with relevant stakeholders, in particular the organised labour, in the preparation and development of an Employment Equity Plan.

A report, in a prescribed format, detailing the progress made in implementing the Employment Equity Plan, shall be submitted to the Department of Labour at least once every year, on such a date as may be determined and, as and when required. The summary of the report shall be entailed (published) in the Overberg District Municipality's Annual Report.

11. ROLES AND RESPONSIBILITIES

Employment equity is the strategic initiative and management function of the Overberg District Municipality. The Municipal Manager, as the Accounting Officer and Head of Administration, accepts the overall accountability of employment equity. This Policy confirms the Municipal Manager as the highest administrative authority on issues relating to employment equity for employees other than the s56/s57 Manager appointments.

The Municipal Council of Overberg District Municipality, acting in consultation with the Municipal Manager, is the highest executing authority on employment equity appointments pertaining to senior managerial appointments, alternatively known as s56/s57 appointments.

In terms of section 24 of the Employment Equity Act, one or more senior managers must be assigned to take responsibility for monitoring and implementing an employment equity plan. Reasonable steps must be taken to ensure that the managers perform their functions. The Directors shall be directly responsible for the implementation of employment equity in their respective departments with the aim of promoting designated groups and equality for all.

The Department Human Resource will be responsible for the implementation of the EE Plan, under the authority of the Director: Corporate Services. The ultimate accountability rests with the Municipal Manager in his capacity as the Chief Executive Officer.

12. COMMUNICATION STRATEGY

Communication has been identified as one of the key success factors in the achievement of Employment Equity in the workplace. Its intention is to make the employees and other stakeholders aware of the content and application of the EEA. It is envisaged that the process of structured communication will prepare the stakeholders for their effective participation and meaningful contribution to the EE process.

The communication strategy consists of the following components:

- Awareness campaigns
- Stakeholder meetings
- Internal newsletter
- Posters
- Electronic communication
- Notice boards
- Display of EEA summary (EEA3) in strategic locations
- Induction of new employees on EE matters and anti-discrimination issues

13. BUDGET AND RESOURCES

The financial and resource implication/s related to the implementation of this Policy shall be qualified and quantified by the Budget and Treasury Department working in conjunction with the Human Resources Management Division.

14. NON-COMPLIANCE

Unreasonable non-compliance with any of the stipulations contained in this policy may result in and/or be dealt with in terms of the applicable municipal Disciplinary Code.

15. DISPUTE RESOLUTION

If there is a dispute about the interpretation or application of this Policy, the disputant or aggrieved party shall refer the dispute or grievance to:

- a) The Employer in terms of the applicable Grievance Procedure;
- b) South African Local Government Bargaining Council, if the dispute falls within its jurisdiction, or the CCMA, if the dispute falls within its jurisdiction for conciliation;
- c) arbitration, if the dispute remains unresolved with parties to the dispute consenting to arbitration; and
- d) competent court(s) in terms of the applicable laws of the Republic of South Africa.

16. APPLICATION OF THIS POLICY WHEN IN CONFLICT WITH THE EMPLOYMENT EQUITY ACT 55 OF 1998

If any conflict relating to a matter dealt with in this Policy arises between this Policy and the provisions of the Employment Equity Act 55 of 1998, the provisions of the Employment Equity Act 55 of 1998 shall prevail.

17. POLICY REVIEW

This Policy shall be reviewed and revised, as and when required by the applicable regulation.

18. DURATION OF THE EE PLAN

In complying with section 20(1) of the Employment Equity Act 55 of 1998, the employment equity plan for Overberg District Municipality must be for a period of five (5) years, effectively from 01 October 2021 till 30 September 2026.

The duration of the plan is based on the planning needs of Overberg District Municipality with specific reference to the need to set attainable numerical goals to be achieved over a reasonable period.

19. EFFECTIVE DATE

This Policy shall come into operation directly after Council approval.



EXTRACT FROM THE COUNCIL MINUTES HELD ON 22 AUGUST 2022

Item A8. 22.08.2022

COUNCIL POLICIES

S Mdewu: Manager Human Resources

(Ref.: 9/1/B & 6/39/2)

PURPOSE

To present the new and/or revised policies to Council, for adoption.

BACKGROUND

The Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) prescribes the executive and legislative authority of a municipality.

Section 11(3) states that a municipality exercises its legislative or executive authority by-

- (a) developing and adopting policies, plans, strategies and programmes.
- (d) administering and regulating its internal affairs.

Section 86(1) states that a municipality must develop and adopt a policy framework for the establishment, regulation and management of an internal municipal service district.

PROGRESS

In conforming to the above executive and legislative authority of the Municipality, policy workshops were conducted on 14, 15 and 25 July 2022, respectively, with Management and the Unions, and Councillors.

POLICIES PRESENTED DURING WORKSHOPS

Policies workshopped with Management and the Unions on 14 and 15 July 2022:

Performance- and Risk Management

- 1) Performance Management and Development Policy Framework (amended)
- 2) Code of Ethics (amended)
- 3) Anti-Corruption and Fraud Prevention Plan (amended)
- 4) Anti-Corruption, Fraud and Financial Misconduct Policy (amended)
- 5) Combined Assurance Policy Framework (amended)

Human Resources

- 6) Recruitment and Selection Policy (amended)
- 7) Induction Policy (new)
- 8) Exit Interview Policy (new)
- 9) External and Internal Bursaries Policy (amended)
- 10) Grievance Policy (new)
- 11) Education, Training and Development Policy (new)
- 12) Integrated Human Resources Framework Policy (new)
- 13) Employment Equity (new)

Emergency Services

- 14) Shift Leader Policy (Fire Department - new)
- 15) Promotion Policy (Fire Department – new)

It is noted that the above policies were workshopped with Councillors on 25 July 2022, except for the Employment Equity Policy.

OUTSTANDING POLICY TO BE WORKSHOPPED WITH COUNCILLORS

The Employment Equity Policy will be workshopped with Councillors on 22 August 2022, prior tabling of all applicable policies (as previously workshopped), for consideration and approval by Council on the same day.

ICT POLICIES

The following ICT policies were tabled to the ICT Steering Committee during November 2021, and the Corporate Services Portfolio Committee on 7 March 2022. Following the in principle approval of ICT policies on 22 August 2022, all ICT policies will be further workshopped with Councillors for re-adoption in December 2022.

- 1) ICT Change Management Policy
- 2) ICT Access Management Policy
- 3) ICT Migration and Disaster Recovery Plan
- 4) ICT Performance Plan
- 5) ICT Operating System Security Controls Policy
- 6) ICT Security Controls Policy
- 7) ICT Strategic Plan
- 8) Municipal Corporate Governance of Information and Communication Technology

FINANCIAL IMPLICATIONS

Provision will be budgeted for regarding any financial implications in terms of the policies.

STAFF IMPLICATIONS

None

LEGISLATIVE FRAMEWORK

Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

ATTACHMENT

List of revised and/or new policies

RESOLVED : (Proposed by Cllr. R Mokotwana and seconded by Cllr. B Mkhwibiso)

- 1) Cognisance was taken of the policies.
- 2) Council approves the policies.

CERTIFIED A TRUE EXTRACT FROM THE MINUTES OF THE COUNCIL MEETING HELD
ON 22 AUGUST 2022.



R BOSMAN
MUNICIPAL MANAGER