



# **MOSSEL BAY MUNICIPALITY**

## **EMPLOYMENT EQUITY POLICY**

APPROVED BY COUNCIL: E105-05/2022 (26 MAY 2022)

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## 1. DEFINITIONS

Any expression or word used in this Employment Equity Policy which is defined in the Employment Equity Act 55 of 1998 shall have the same meaning as in the Employment Equity Act 55 of 1998 unless defined otherwise herein. In this Policy, unless the context and intention indicates otherwise:

**“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 Mossel Bay Municipality. Such measures includes the preferential treatment 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.

All terminology not defined under clause 2 of this policy shall bear the same meaning as in the applicable legislation.

## **2. PREAMBLE**

The Mossel Bay Municipality (hereinafter referred to as the “MBM”) which recognises the injustices of the past, believes that this Policy sets out to heal the divisions caused by such injustices and to build a workforce based on democratic values, fair labour practices and fundamental human rights. Local governance entails transformation in the form of reconstruction, democratisation and development. It is recognised that affirmative action and employment equity form an integral part of this overarching transformative spirit. At the heart of this is the implementation of the provisions of the Employment Equity Act 55 of 1998. The Mossel Bay Municipality shall implement comprehensive employment equity measures to redress historic and existing inequalities, imbalances, prejudices and injustices in the workplace by:

- 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.

## **3. 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 Mossel Bay 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

#### **4. LEGAL FRAMEWORK**

The Employment Equity Policy is mandated and informed by the following authoritative and persuasive sources of law:

- International Law: United Nations Convention on the Rights of Persons With Disabilities and Optional Protocol;
- Constitution of the Republic of South Africa, 1996: Chapter 2 entails the Bill of Rights (BoR), Section 9 is entitled “Equality” thereby lays down that everyone is equal before the law and has the right to equal protection and benefit of the law;
- Employment Equity Act 55 of 1998;
- Labour Relations Act 66 of 1995;
- Basic Conditions of Employment Act 75 of 1997;
- Promotion of Equality and Prevention of unfair Discrimination Act 4 of 2000;
- Occupational Health and Safety Act 85 of 1993;
- Local Government: Municipal Systems Act 32 of 2000;
- Local Government: Municipal Structures Act 117 of 1998;
- Local Government: Municipal Finance Management Act 56 of 2003;
- Skills Development Act 97 of 1998;
- Skills Development Levies Act 9 of 1999;
- South African Qualifications Authority Act 58 of 1995;
- South African Local Government Bargaining Council (SALGBC) Collective Agreements;
- White Paper: Affirmative Action in the Public Service;
- White Paper on the Transformation of Public Service;
- White Paper on the Rights of Persons With Disabilities, dated 9<sup>th</sup> December 2015;
- National Development Plan;
- Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, dated 17<sup>th</sup> January 2014;
- Employment Equity Regulations, 2014
- Code of Good Practice on the Preparation, Implementation and Monitoring of Employment Equity Plans;
- Code of Good Practice on the Handling of Sexual Harassment Cases in the Workplace;
- Code of Good Practice on the Integration of Employment Equity into Human Resource Policies and Practices;
- Code of Good Practice on HIV and AIDS and the World of Work;
- Code of Good Practice on the Employment of People with Disabilities;
- National Skills Development Strategy;
- National Qualifications Framework; and
- Mossel Bay Municipality’s Delegations of Authority.

#### **5. SCOPE AND APPLICATION**

This Policy applies to the Mossel Bay Municipality, all its employees and the candidates who apply for employment within the Mossel Bay Municipality, including designated groups and non-designated groups.

## **6. OBJECTIVES OF THE POLICY**

The broad objectives of the Employment Equity Policy are as follows:

- 6.1. To address under-representation of designated groups across all occupational categories and levels in the workforce.
- 6.2. To identify and develop strategies for the elimination of employment barriers in the employment policies and practices of the Municipality.
- 6.3. To develop operations-oriented strategies for the achievement of numerical goals and timetables for the implementation of affirmative action measures, taking into account the mission of the Mossel Bay Municipality.
- 6.4. To transform the Mossel Bay Municipality as far as possible into an equal opportunity institution by employing a workforce that shall reflect the demographic profile of the municipal area of the Mossel Bay Municipality.
- 6.5. To empower members of designated groups economically.
- 6.6. To promote openness and encourage inclusivity in the consultation process relating to employment equity, as contemplated in the Employment Equity Act 55 of 1998.
- 6.7. To create and establish an environment within the Mossel Bay Municipality, as a workplace, that lends itself to equal access and opportunities for growth and development to designated groups.
- 6.8. To ensure skills development and accelerated development by advancing and promoting the successful implementation of equity targets reflected in the National Skills Strategy of South Africa.
- 6.9. To confirm the Mossel Bay Municipality's commitment towards the implementation of employment equity and affirmative action measures.
- 6.10. To establish procedures to address and resolve disputes regarding the implementation and enforcement of employment equity.
- 6.11. To establish procedures for monitoring and enforcing the implementation process.

## **7. 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 "smart";
- 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 the LAWS applicable in the Republic of South Africa.

## 8. POLICY CONTENT

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 under-representation 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 under-represented 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 under-represented. 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 and annual benchmarks.
- 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;
- 2 trade unions representatives nominated by the trade unions; (i.e 1 from IMATU and 1 from 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.

## **9. IMPLEMENTATION, MONITORING AND EVALUATION**

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

The Human Resources Division 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 Mossel Bay 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 Mossel Bay Municipality's Annual Report.

## **10. ROLES AND RESPONSIBILITIES**

Employment equity is the strategic initiative and management function of the Mossel Bay 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 Mossel Bay 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.

The Director Corporate Services takes responsibility for driving employment equity and champions it at senior management echelons.

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.

## **11. RECORD KEEPING**

A copy of all relevant employment equity documents must be kept at Human Resource Management Division for perusal by employees of the Municipality.

## **12. COMMUNICATION AND ADVOCACY**

Circulars, messages and notices on notice boards will be utilised in order to inform all employees and stakeholders of the availability of employment equity documentation.

Copies of employment equity documentation will also be distributed to the parties that took part in the consultation processes and placed in prominent places accessible to all employees including satellite offices.

Copies of the most recent annual report submitted by the Mossel Bay Municipality to the Department of Labour must be placed in prominent places accessible to all employees including satellite offices.

## **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:

- The Employer in terms of the applicable Grievance Procedure;
- 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;
- arbitration, if the dispute remains unresolved with parties to the dispute consenting to arbitration; and
- competent court(s) in terms of the applicable laws of the Republic of South

## **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.

## **18. EFFECTIVE DATE**

This reviewed Policy shall come into operation with effect from the 1<sup>st</sup> of July 2022.

