

# CHAPTER 3

## EMPLOYMENT EQUITY PLAN.

### A. INTRODUCTION:

**Section 20 of the EMPLOYMENT EQUITY ACT, 1998 (Act 55/1998)**(hereinafter referred to as the Act) prescribes that every **designated employer** must formulate an **EMPLOYMENT EQUITY PLAN** in terms of the Act.

### B. THE AIM OF THIS DIRECTIVE:

The aim of the directive is to define the council's policy in respect of employment equity. In defining such policy the Council takes cognisance of, but does not necessarily subscribe to, the relevant sections of the Act mentioned below.

1. **The purpose of this Act is to achieve equity in the workplace by:**

(a) promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and

(b) implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workforce.

2. Every employer must take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice.

3. Section 6, which prohibits discrimination on the following grounds:

- Race;
- Gender;
- Sex;
- Pregnancy;
- Marital status;
- Family responsibility;
- Ethnic or social origin;
- Colour;
- Sexual orientation;
- Age;
- Disability;
- Religion;
- HIV status;
- Conscience;
- Belief;
- Political opinion;
- Culture;
- Language; and
- Birth.

4. Section 13, which describes the duties of employers.
5. Section 15, which describes the affirmative action measures a designated employer must take.

### C. WORD MEANINGS;

In this chapter, unless clearly otherwise stated, the words/phrases listed below have the meaning prescribed next to the word/phrase:

**“Constitution”** means the Constitution of the Republic of the South Africa, 1996 ( Act 108/1996)

**“designated employer”**

means:

- (a) an employer who employs more than 50 employees;
- (b) an employer who employs fewer than 50 employees, but has a total turnover that is equal to or above the applicable annual turnover of a small business in terms of Schedule 4 of the aforesaid **EMPLOYMENT EQUITY ACT**;
- (c) a municipality, as referred to in Chapter 7 of the Constitution;
- (d) an organ of state as defined in section 239 of the Constitution, but excluding local spheres of government, the National Defence Force, the National Intelligence Agency and the South African Secret Service; and
- (e) an employer bound by a collective agreement in terms of Section 23 or 31 of the Labour Relations Act, which appoints it as a designated employer in terms of the aforesaid **EMPLOYMENT EQUITY ACT**, to the extent provided for in the agreement;

**“designated groups”** means black people, women and people with disabilities;

**“employee”**

means any person other than an independent contractor who:

- (a) works for another person or for the State and who receives, or is entitled to receive, any remuneration, and
  - (b) in any manner assists in carrying on or conducting the business of the employer,
- and **“employed”** and **“employment”** have corresponding meanings;

**“employment policy**

**or practice” includes, but is not limited to:**

- a) recruitment procedures, advertising and selection criteria;
- b) appointments and the appointment process;
- c) job classification and grading;
- d) remuneration, employment benefits and terms and conditions of employment;
- e) job assignments;
- f) the working environment and facilities;

- training and development;
- g) performance evaluation system;
- h) promotion;
- i) transfer;
- j) demotion;
- k) disciplinary measures other than dismissal; and
- l) dismissal.

**“head of department”** An official of the municipality appointed as the head of a department of the municipality’

**“management team”** means the Municipal Manager, the heads of department and any other official included in the team by the Municipal Manager.

**“merit”** The ability of a person to do a task or occupy a specific post.

**“Municipal Manager”** The person appointed by the council in terms of Section 82 of the **Local Government; Municipal Structures Act, 1998 (Act 117/1998)** as the head of administration and accounting officer for the municipality.

**“mindset”** A term to include a person’s enthusiasm and attitude towards his/her work and in this instance also his/her commitment to serve the people of Msinga.

**“other group”** means a group of people other than those included in the **“designated group”**. In the context of this directive this group denotes white males.

**“disabilities”** means people who have a long-term or recurring physical or mental impairment that substantially limits their prospects of entry into, or advancement in, employment.

**“potential”** The inherent ability of a person to perform a specific task or occupy a specific post after through +training.

**“Reasonable accommodation”** means any modification or adjustment to a job or to the working environment that will enable a person from a designated group to have access to or participate or advance in employment

#### D. CURRENT SITUATION

- |    |                               |     |     |
|----|-------------------------------|-----|-----|
| 1. | Total staff complement:       | 166 |     |
| 2. | <u>Composition:</u>           |     |     |
|    | 2.1. <u>“Designated group</u> |     |     |
|    | - African males:              | 101 |     |
|    | - African females:            |     | 65  |
|    | - Coloureds:                  |     | Nil |
|    | - Indians:                    |     | 1   |
|    | - People with disabilities:   |     | 2   |
|    | 2.2. <u>“Other group”</u>     |     | Nil |
3. Council recognises that the current situation has been created by the urgency to make appointments and the area within which the Council operates.
  4. Council in this regard places on record that it does not see people in terms of the colour of their skins, but in terms of them being human beings.

#### E. POLICY STATEMENT:

1. Council subscribes to an employment policy based on non-discrimination and merit and acknowledge that any person who is keen to, and has the ability, mindset and potential, could have a definite role to play in the development of this municipality.
2. Council therefore is not in favour of formulation an Employment Equity Plan as it views “equity” as a generic term, encompassing all people.
3. Council sees its Employment Policy as an integral part of its strategy and values as is contained in its policy directive regarding the recruitment, selection, appointment, promotion and transfer of personnel (**Chapter 1 of the Staff Regulations**) that is endorsed and driven by top management and is far more than a legislative requirement but a firm determination to become the best.
4. Council therefore emphasises that no goals based on irrelevant measures like population group, creed or religion will be set and that only people who show the ability, mindset and potential to become assets to the municipality and all communities within it will be considered for employment.
5. That Council therefore commits itself to an employment policy where ability, mindset, potential and isiZulu language ability are the only criteria.
6. That targets in respect of designated and other groups are therefore not deemed necessary as the Council views such factors of far less importance than the criteria mentioned above.
7. In terms of Section 20 the Act

- 7.1. The objectives to be achieved for each year of the plan:  
No objectives other than those mentioned above are set.
- 7.2. The affirmative action measures to be implemented as required by section 15 (2) (of the Act):
- 7.2.1. Council does not subscribe to affirmative action and places on the record its commitment to employ the best possible staff irrespective of race group, creed or culture
- 7.2.2. In this regard Council also takes cognisance of, and subscribes to, Section 15 (4) which reads:  
“Subject to section 42, nothing in this section requires a designated employer to take any decision concerning an employment policy or practice that would establish an absolute barrier to the prospective or continued employment or advancement of people who are not from designated groups.”
- 7.2.3. Apart from the factors of ability, mindset and potential that Council will consider in appointments it is a clear requirement that when the ability to converse in isiZulu is a job requirement, this would become a prerequisite for appointment.
- 7.3. Where under representation of people from designated groups has been identified by the analysis, the numerical goal's to achieve the equitable representation of suitably qualified people from designated groups within each occupational category and level in the workforce, the timetable within which this is to be achieved, and the strategies intended to achieve those goals:  
Not applicable.
- 7.4. The timetable for each year of the plan for the achievement of goals and objectives other than numerical goals:  
Not applicable.
- 7.5. The duration of the plan, which may not be shorter than one year or longer than five years:  
Not applicable.
- 7.6. The procedures that will be used to monitor and evaluate the implementation of the plan and whether reasonable progress is being made towards implementing employment equity:  
Not applicable
- 7.7. The internal procedures to resolve any dispute about the interpretation or implementation of the plan:  
Not applicable
- 7.8. The persons in the workforce, including senior managers, responsible for monitoring and implementing the plan:  
Not applicable

- 7.9. Any other prescribed matter:  
None at this time

#### F. AUTHORITIES:

In addition to the authorities granted in page 2 of Chapter 1 of the Staff Regulations the following authorities are also issued herewith:

1. The council deems the above rules and the contents of this directive to be the policy framework within which the Municipal Manager must operate when he/she applies the directives contained in section 66 of the **Local Government: Municipal System Act,2000 (Act 32 of 2000)**
2. The council deems the contents of this directive to be the **policy directions** referred to in section 55 the **aforesaid Municipal Systems Act.**

