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Department : Public Safety  
North West Provincial Government  
REPUBLIC OF SOUTH AFRICA

## *EMPLOYMENT EQUITY POLICY*

**“Preventing Discrimination and  
Promoting Equality in the Workplace”**

**NORTHWEST PROVINCIAL GOVERNMENT:  
DEPARTMENT OF PUBLIC SAFETY  
HUMAN RESOURCES POLICY**

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## PREAMBLE

The Constitution guarantees everyone equity as a fundamental right.

The right to equality includes the full and equal enjoyment of all rights and freedoms without discrimination, and incorporates the possibility of remedial measures that seek to protect and advance persons or groups of persons that have been disadvantaged by unfair discrimination.

Since the onset of democracy, legislative and other measures have been implemented with a view to eradicating systemic and structural inequalities in society, including inequalities in public service employment, with a focus on race, gender and disability based disparities.

Despite such measures, which include the Employment Equity Act, the White Paper on Transforming the Public Service, the White Paper on Affirmative Action in the Public Service and compliance action taken in pursuit of these policies, systemic inequalities and discrimination continue to bedevil aspects of public sector employment.

Inequality in employment not only undermines enjoyment of the right to equality for those excluded from employment opportunities, it also hampers service excellence and responsive service delivery by entrenching structural inefficiencies in the use of available human resources.

The Department of Public Safety in the North West Provincial Government ("the Department") accordingly adopts this policy as a framework for:

- A review and renewal of its employment equity programme with a view to accelerating progress towards the realization of a discrimination free workplace where no one is denied opportunity for reasons other than ability; and
- Transforming the Department into an employer of choice where women, men and people with disabilities from diverse racial and other backgrounds enjoy equal chances to serve the nation and are equitably represented in all structures and at all levels.

## 1. ABBREVIATIONS AND DEFINITIONS

<b>AIDS:</b>	Acquired Immuno Deficiency Syndrome.
<b>DCP:</b>	Disciplinary Code and Procedures for the Public Service.
<b>EAP:</b>	Employee Assistance Programme.
<b>EEP:</b>	Employment Equity Plan.
<b>HDI:</b>	Historically Disadvantaged Individuals.
<b>HIV:</b>	Human Immunodeficiency Virus.
<b>ILO:</b>	International Labour Organization.
<b>LRO:</b>	Labour Relations Office.
<b>SADC:</b>	Southern African Development Community.
<b>WSP:</b>	Workplace Skills Plan.

**Affirmative Action:** Systematic employment measures that seek to redress systemic inequalities experienced by black people, women and persons with disabilities in employment opportunities and include preferential treatment of suitably qualified black people, women and persons with disabilities, in regard to recruitment, skills development, advancement, selection and retention.

**Black People:** Refers to African, Coloured and Indian men and women.

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- Department:** Department of Public Safety, North West.
- Disability:** A physical or mental impairment which is long-term or recurring; and which substantially limits a person's prospect of advancement in employment.
- Employment Equity:** The achievement of equal opportunities in the workplace through the elimination of unfair discrimination and the implementation of remedial measures aimed at eradicating existing inequalities and advancing black people, women and persons with disabilities, collectively referred to, in the Employment Equity Act, as Designated Groups.
- Employment Equity Plan:** A plan drawn in compliance with the Employment Equity Act as a framework for proactive elimination of unfair discrimination and implementation of affirmative measures to advance black people, women and persons with disabilities in response to barriers identified through an Employment Equity Audit and to ensure their equitable representation.
- Historically Disadvantaged Individuals:** In this context this Historically Disadvantaged Individuals refers to black people, women and persons with disabilities in recognition of their historical subjection to systematic institutionalized unfair discrimination.
- Reasonable Accommodation:** One or more measures involving adjustments in employment terms, conditions and the environment, including work design and facilities, effected with a view to accommodating the needs of people with disabilities, pregnant employees, employees with family responsibilities and other employees needing such, without undue hardship to the employer.
- Unfair Discrimination:** Occurs when an employee is unfairly accorded less favourable treatment with regard to employment opportunities or benefits on the basis of one or more grounds that are prohibited by law. Unfair discrimination may be direct (specific to a ground) or indirect (discriminatory impact by disproportionately disadvantaging persons identified by a prohibited ground).

## 2. PURPOSE AND OBJECTIVES

- 2.1 The purpose of this policy is to guide managers and employees in the Department in the implementation of measures aimed at giving effect to the right to equality as entrenched in the Constitution and legislation by:
- (a) Eliminating all forms of unfair discrimination in employment practices; and
  - (b) Implementing affirmative measures that seek to proactively equalize employment opportunities for black people, women and persons with disabilities as a means of eliminating their systematic unfair discrimination and inequality due to historical injustices.

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## 2.2 The policy objectives include:

- (a) Prohibiting and eliminating all forms of unfair discrimination in employment within the Department;
- (b) Prohibiting , preventing and eliminating sexual harassment;
- (c) Recommitting the Department to the implementation of affirmative action and elaborating the Department's holistic approach to affirmative action;
- (d) Ensure accountability for the elimination of discrimination and implementation of affirmative action;
- (e) Providing for internal redress for violations of rights relating to non-discrimination, harassment and other equality elements; and
- (f) Providing a framework for:
  - i. Identifying and eliminating persisting forms of discrimination and inequality in the Department as a work place;
  - ii. Reviewing current affirmative action measures with a view to implementing a comprehensive affirmative action programme that goes beyond numbers and accelerates the realisation of employment equity goals in the Department;
  - iii. Aligning skills development measures with employment equity objectives;
  - iv. Enhancing departmental compliance with national and international obligations on the promotion of workplace equality and decent work; and
  - v. Ensuring that all managers and personnel involved in human resources practices that have an impact on workplace equality are held accountable for their action.

## 3. PRINCIPLES

The principles that underpin this policy and which should inform its implementation, include the following:

- 3.1. The right to equality, which incorporates employment equity or equality in the workplace, is a fundamental human right that is guaranteed in international law, the Constitution, national legislation and the provincial policy framework;
- 3.2 The social consequences of previously legalised historical injustices underpin entrenched systemic structural inequalities that continue to disadvantage black people, women and people with disabilities in employment, skills acquisition and other areas of life;
- 3.3 Giving meaning to the right to equality requires the elimination of unfair discrimination and remedial measures (affirmative action) that seek to advance those that continue to be systematically disadvantaged, as a means of equalising opportunities;
- 3.4 Affirmative action or remedial measures as envisaged in international instruments, the Constitution and equality laws such as the Employment Equity Act, include but transcend the preferential treatment of suitably qualified black people, women and persons with disabilities, in employment practices such as recruitment, development and promotion;
- 3.5 If properly implemented, employment equity, which refers to a combination of non-discrimination and affirmative action, should affirm, enhance effective and responsive service delivery;
- 3.6 Proper implementation of employment equity necessitates, among others, understanding skills development as a critical part of affirmative action and that a symbiotic link should be maintained between skills development planning and employment equity measures;

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- 3.7 The experiences of women, people with disabilities and people affected by HIV/AIDS need to be factored into employment equity planning, implementation and enforcement; and
- 3.8 No act of unfair discrimination, sexual harassment or any violation of this policy or applicable equality laws should be treated with impunity.

#### **4. LEGISLATIVE FRAMEWORK**

4.1 International laws/standards that influence and regulate equality and human dignity in the workplace include the following:

- (a) Convention on the Elimination of all Forms of Racial Discrimination(CERD);
- (b) Convention on the Elimination of All Forms of Discrimination Against Women(CEDAW);
- (c) UN Convention for the Rights of Persons with Disabilities (CRPD);
- (d) ILO Code of Practice on HIV/AIDS and the World of Work (2001); and
- (e) ILO Convention 111(Discrimination), Convention 156 (Workers with Family; and Responsibilities), and Convention 183 (Maternity Protection).

4.2 South African laws and policy frameworks that underpin employment equity include the following:

- (a) The Constitution of the Republic of South Africa;
- (b) Employment Equity Act, 1998;
- (c) Promotion of Equality and Prevention of Unfair Discrimination Act, 2000;
- (d) Public Service Act, 1994;
- (e) Basic Conditions of Employment Act, 1997;
- (f) Public Service Regulations, 2001;
- (g) PSCBC Resolutions I and 2;
- (h) White Paper on Transforming the Public Service;
- (i) White Paper on Affirmative Action in the Public Service;
- (j) Code of Good Practice on Integrating Employment Equity into Human Resources Practices and Policies, 2005;
- (k) Code of Good Practice: Key Aspects on the Employment of People with Disabilities, 2002;
- (l) Code of Good Practice on Key Aspects of HIV/AIDS and Employment;
- (m) Amended Code of Good Practice on the Handling of Sexual Harassment Cases in the Workplace, 2005;
- (n) North West Government Employment Equity Policy( Policy No NWPG10) ; and
- (o) North West Government Integrated Provincial Gender Strategy.

#### **5. SCOPE OF APPLICATION**

5.1 This policy is applicable to all employees and prospective employees of the Department, subject to the proviso that employees that are excluded from the Labour Relations Act and the Employment Equity Act may, after exhausting internal remedies, take their cases to the Equality Court.

5.2 Rights relating to affirmative action only apply to black people, women and people with disabilities whereas rights relating to unfair discrimination apply to all employees.

#### **6. POLICY STATEMENT**

6.1 The Department commits itself to the realization of employment equity goals as envisaged in the Employment Equity Act and the achievement of substantive compliance with all equality laws and policies relating to work place equality;

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- 6.2 All employees of the Department have a right to equality, which includes freedom from unfair discrimination and sexual harassment, and incorporates the responsibility of the Department to implement affirmative action measures aimed at advancing Historically Disadvantaged Individuals (HDIs) in order to equalise all employment opportunities;
- 6.3 All managers and human resources personnel have a duty, proportionate to their power, to eliminate unfair discrimination and to implement affirmative measures to eliminate unfair discrimination, advance HDIs and achieve a workplace that reflects the human diversity in the North West Province and broader society;
- 6.4 The duty referred to in paragraph 6.3 above includes preferential measures in employment practices such as recruitment and selection, acting appointments, training and development, promotion and retention strategies targeting suitably qualified black people, women and people with disabilities;
- 6.5 All employment decisions in the Department, including decisions relating to recruitment and selection, job assignments, development, promotion and retention shall, forth with, be subjected to an employment equity compliance test, based on the provisions of this policy and relevant laws;
- 6.6 Memoranda dealing with appointments shall always indicate the employment equity implications of an appointment and if employment equity will be undermined by such an appointment, justify such an appointment and outline future remedial measures;
- 6.7 All structures responsible for making employment related decisions such as recruitment, development and promotion shall have equitable representation of groups designated by the Employment Equity Act as beneficiaries of affirmative measures (Designated Groups);
- 6.8 Departmental Employment Equity Plans and Reports, as envisaged in the Employment Equity Act, shall always be up to date and displayed as prescribed;
- 6.9 Consultation and cooperation with employee representatives is a fundamental pillar of this policy. The Workplace Forum will be the main avenue for such consultation and cooperation; and
- 6.10 The Workplace Forum membership and participation in decision-making should reflect equitable representation of all Designated Groups.

## **7. PREVENTION AND ELIMINATION OF UNFAIR DISCRIMINATION**

### **7.1 Duty to Eliminate Unfair Discrimination**

Every manager must take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice within their sphere of authority.

### **7.2 Prohibition of Unfair Discrimination**

- (a) All forms of unfair discrimination, whether direct or indirect, are prohibited and it is the responsibility of all employees to inform themselves about and refrain from perpetrating unfair discrimination.
- (b) Prohibited grounds of unfair discrimination, include one or more of the following:
- i. Race;
  - ii. Gender;
  - iii. Sex;

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- iv. Pregnancy;
- v. Marital status;
- vi. Family responsibility;
- vii. Ethnic or social origin;
- viii. Colour;
- ix. Sexual orientation;
- x. Age;
- xi. Disability;
- xii. Religion;
- xiii. HIV status;
- xiv. Conscience;
- xv. Belief;
- xvi. Political opinion;
- xvii. Culture;
- xviii. Language, and
- xix. Birth.

(c) In line with the Department's conviction that no individual should be denied any employment opportunity for reasons other than ability, unfair discrimination on the basis of other human qualities that may not be in the above list (extracted from the Employment Equity Act) is also prohibited.

### **7.3 Preferential Treatment**

Preferential treatment of HDIs in employment, within the boundaries of the Employment Equity Act and the Promotion of Equality and Prevention of Unfair Discrimination Act, shall not constitute unfair discrimination.

### **7.4 Inherent Requirement of a Job**

Employment practices that distinguish, exclude, or prefer any person on the basis of an inherent requirement of a job are permissible provided there is a demonstrable relationship between the requirement in question and job performance and also that affirmative action objectives are not undermined.

### **7.5 Prohibition of Unauthorized Medical Testing**

Medical testing is prohibited unless authorized by and conducted in accordance with the provisions of section 7 of the Employment Equity Act and the provisions of the Departmental policy on HIV/AIDS.

### **7.6 Prohibition of Sexual and Other Forms of Harassment**

(a) All employees of the Department are required to:

- i. Refrain from sexual harassment of fellow employees and members of the public;
- ii. Report acts of sexual harassment; and
- iii. Familiarise themselves with the sexual harassment policy of the Department.

(b) All employees of the Department are required to:

- i. Refrain from racial harassment, disability harassment, harassment based on HIV status and any other form of harassment;
- ii. Report acts of harassment; and

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- iii. Undergo sensitisation training on non-discrimination, racism, disability, HIV/AIDS and gender equality.

## **8. AFFIRMATIVE ACTION PLANNING & IMPLEMENTATION**

### **8.1 Responsibilities**

- (a) The MEC and the HOD have overall responsibility for achieving employment equity in the Department and for ensuring employment equity compliance throughout;
- (b) The HOD must appoint an Employment Equity Officer at SMS level, and with adequate authority and reporting to the HOD, to facilitate employment equity implementation;
- (c) It is the responsibility of each SMS level manager to conduct a workplace analysis or audit and to prepare and implement an Employment Equity Plan (EEP) for his or her component;
- (d) Each component's Employment Equity Plan (EEP) shall be disseminated to all employees in that component and the Department's Employment Equity Plan (EEP) shall be displayed as prescribed in the Employment Equity Act;
- (e) The Human Resources Manager and the Employment Equity Officer in consultation with the line managers shall compile a Workplace Profile and a departmental EEP in response to all barriers identified in a departmental Employment Equity Audit;
- (f) The Department's EEP, including targets, shall be revised annually in response to employment shifts and to address barriers identified through a regular analysis of all employment practices;
- (g) The HOD shall sign the EEP and ensure that each manager is held accountable for employment equity delivery, through the individual and Departmental performance management processes; and
- (h) Employment Equity Reports shall be prepared quarterly and annually by each SMS manager, feeding to quarterly and annual reports to be prepared by the Employment Equity Officer.

### **8.2 Policy and Practice Analysis**

- (a) Managers should develop holistic and realistic EEPs that respond to each barrier or form of unfair discrimination identified in a comprehensive audit and analysis of all employment practices to identify existing and potential barriers to the achievement of equality in employment opportunities and benefits, particularly for HDIs; and
- (b) The outcomes of the audit should be communicated to all employees.

### **8.3 Developing or Updating a Workforce Profile and Numerical Targets**

- (a) A Workforce Profile, indicating the extent of representation for each Designated Group, shall be regularly developed and/or updated for the Department and each unit, in the prescribed format;
- (b) The Workforce Profile for each unit and the Department shall be displayed for all to see; and
- (c) Numerical Targets for each unit and the Department shall be displayed for all to see, and should be integrated in organisational performance review mechanisms.

### **8.4 Consultation**

- (a) The Department's EEP and those of constituent units must be products of an inclusive consultative process that involves employee representatives under the auspices of the Workplace Forums.
- (b) In addition to the consultation of Trade Unions, measures will be put in place to ensure that the views of non-unionised employees are also taken into consideration.

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- (c) Final decisions regarding employment equity planning remain a management prerogative and responsibility.

## **9. APPLICATION OF EMPLOYMENT EQUITY IN ALL HUMAN RESOURCES EMPLOYMENT PRACTICES AND PROCESSES**

### **9.1 General Statement**

- (a) All employment practices and human resources processes should promote an affirming non-discriminatory environment that fosters respect for the dignity of all while ensuring that each employee's potential is fully realised in the interests of service excellence.
- (b) All employment practices and human resources processes shall be regularly aligned with employment equity requirements and objectives.
- (c) The alignment will be facilitated by periodic audits and reviews aimed at identifying and eliminating barriers that undermine equal enjoyment of workplace opportunities by women, black people, people with disabilities, people living with HIV and any other group.
- (d) Human resources research and data management shall be adapted to support regular monitoring of all aspects of employment equity.

### **9.2 Human Resources Planning**

- (a) All human resources planning processes and plans shall be aligned to and contribute to the achievement of employment equity goals and objectives.
- (b) Human resources planning shall include succession planning and a retention strategy to ensure that there is always a pool of suitably qualified HDIs from which senior and scarce skills appointments that promote equality may be made.
- (c) Succession planning does not mean reserving or promising a job to any person.

### **9.3 Recruitment, Advertising and Selection**

#### **(a) Recruitment**

- i. The determination of employment requirements for any job should be reviewed to identify and eliminate unintended unfair discrimination.
- ii. Requirements that unfairly and unnecessarily perpetuate historical imbalances by disproportionately excluding HDIs, should be avoided.
- iii. There should always be a demonstrable relationship between job requirements, including qualifications and years of experience, and outputs expected from the job.
- iv. Affirmative action requirements regarding a post shall be established before advertising and taken into account in advertising strategies.

#### **(b) Advertising**

- i. The core functions or essential requirements of each job should be identified and, to the extent possible, included in the advert to facilitate fair selection.
- ii. Posts shall be advertised as widely as possible with special measures implemented to attract as many suitably qualified persons from the Designated Groups, particularly the least represented in that category of posts, as possible.
- iii. It is the joint responsibility of the Director: Human Resources and each SMS manager on whose structure an advertised post sits, to ensure that as many suitably qualified persons from Designated Groups apply.
- iv. Every job advert shall indicate the Department's position on affirmative action and non discrimination and to the extent possible, indicate whether preferential treatment will be given to candidates from one or more of the Designated Groups that are suitably qualified as envisaged in the Public Service Act.

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### **(c) Selection**

- i. All Selection Committees or Panels shall comprise at least 40% of either gender and to the extent possible, be inclusive with regard to race and disability.
- ii. Where necessary, appropriately qualified and/or ranked HDIs from other government departments or civil society will be co-opted to ensure that Selection Committees or Panels are representative.
- iii. Panellists shall be provided with the Departmental and relevant unit's employment equity profile and plan prior to the short listing and interview processes.
- iv. Standard guidelines for integrating affirmative action considerations in selection processes shall be prepared and integrated in the training of all managers; and
- v. Where representiveness is an issue, the interview and selection should focus on identifying suitably qualified persons and not necessarily the best qualified person.

### **9.4 Appointment and Appointment Processes**

- (a) Where a person other than a candidate who will promote equitable representation of HDIs is recommended for appointment, written reasons should be included and an indication of what was done to recruit suitably qualified HDIs and an undertaking to correct the situation, should be included.
- (b) The appointing officer may choose not to fill the post if the equitable representation of one or more of the Designated Groups will be severely undermined.
- (c) It is the responsibility of the HOD to ensure that all appointments promote equitable representation of all Designated Groups, particularly in compliance with public service affirmative action targets.
- (d) Appointment on the basis of potential shall be accompanied by a skills development plan which shall be implemented immediately after appointment.
- (e) An induction is an important practice for HDIs entering through lateral entry or appointed on the basis of potential and should accordingly always be implemented.
- (f) A probation period of an HDI appointed on the basis of potential shall be linked to a skills development plan that is informed by the selection process.

### **9.5 Job Classification and Grading**

All forms of unfair discrimination, whether direct or indirect, shall be identified and removed from all job classifications and grading.

### **9.6 Remuneration, Employment Benefits and Terms/Conditions of Employment**

All forms of unfair discrimination, whether direct or indirect, shall be identified and removed from all remuneration, employment benefits and conditions of employment.

### **9.7 Job Assignments**

- (a) All forms of unfair discrimination, whether direct or indirect, shall be identified and removed from job assignment practices.
- (b) Acting appointments will be executed in a manner that promotes the advancement of HDIs and their equitable representation at all levels of authority.

### **9.8 The Working Environment and Facilities**

- (a) The Department shall do everything possible to create an affirming work environment for all employees that is free from harassment and unfair discrimination.
- (b) All managers are required to identify unfair discrimination in the work environment within their authority and progressively eliminate such within the context of an EEP.

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- (c) Creating an affirming and non-discriminatory environment incorporates implementing measures that seek to provide reasonable accommodation to address gender, disability, HIV and other differences.
- (d) The Employee Assistance Programme (EAP) should get involved as early as possible in performance deficiencies that seem to emanate from HIV/AIDS, disability or family problems.

### **9.9 Training and Development**

- (a) Unfair discrimination, whether direct or indirect, in training and development is prohibited.
- (b) All training and development policies and practices, particularly skills development measures as envisaged in the Skills Development Act, shall be regularly audited to identify and eliminate unfair discrimination.
- (c) Training and development measures constitute an important part of affirmative action and shall accordingly be aligned to employment equity, particularly affirmative action objectives as outlined in the Training and Development Policy.
- (d) Accelerated development and preferential treatment of persons from Designated Groups forms part of employment equity and is to be reflected in the Employment Equity Plan, including targets and in the Workplace Skills Plan (WSP).

### **9.10 Performance Management**

- (a) A clear job description is an important measure for ensuring openness and eliminating real or perceived unfair discrimination in performance management and should accordingly always be implemented immediately upon appointment.
- (b) Proportional responsibility for the achievement of employment equity objectives and targets will be reflected in the job descriptions and performance contracts of the HOD, Human Resources Director, Employment Equity Officer and all SMS Managers

### **9.11 Promotion**

- (a) Promotion is an integral part of employment equity and ensuring employment equity in promotions is as much a requirement as ensuring equitable representation of designated groups at all levels.
- (b) Developmental and other measures shall be implemented to ensure that suitably qualified members of designated groups are not trapped in 'dead end' jobs or the 'proverbial glass ceiling'.

### **9.12 Transfer**

- (a) Voluntary, including cross transfers that facilitate the objectives of employment equity, shall be encouraged.
- (b) Where a person from a Designated Group is transferred, the replacement must be from the same or lesser represented Designated Group.

### **9.13 Demotion**

Demotion of HDIs shall be sanctioned by the HOD after satisfying himself or herself that there was no unfair discrimination in the circumstances that led to such demotion.

#### **9.14 Reasonable Accommodation for People with Disabilities, Workers with Family Responsibilities and Others**

- (a) Reasonable accommodation, which includes adaptation of working spaces and facilities, shall be provided to people with disabilities as specified in the Code of Good Practice on Disability and in response to sufficient disclosure; and
- (b) Reasonable accommodation to respond to gender needs as guided by the ILO Conventions, Provincial Gender Policy and best practices in the public service, shall be an integral part of employment conditions in the Department.

#### **9.15 Discipline, Grievance and Dispute Resolution**

All disciplinary and grievance procedures shall be reviewed regularly to identify and eliminate unfair discrimination, whether direct or indirect, and to ensure that processes facilitate swift, effective and responsive resolution of employment equity disputes.

#### **9.16 Termination of Employment**

- (a) Employment termination trends shall be reviewed regularly to ensure that HDIs are not disproportionately terminated and to identify and address possible unfair discrimination and improve retention, particularly of Designated Groups.
- (b) Every termination of a person from a Designated Group shall be replaced by that designated Group or a less represented Designated Group.
- (c) Every designated Group resignation must involve a voluntary exit interview that should include an ascertainment of main reasons for the termination of each member of that group. Mechanisms for execution are to be outlined in a separate policy.

### **10. STRUCTURES, RESPONSIBILITIES AND OBLIGATIONS**

#### **10.1 General Principles**

- (a) The consultation principles that are stipulated in the Employment Equity Act shall be complied with at all times.
- (b) Gender, disability, HIV/AIDS and other equality or human rights issues relating to equality in the workplace are to be mainstreamed in the implementation of this policy even though such issues may be elaborated in separate instruments and coordinated by different structures.
- (c) Persons or structures responsible for the coordination of gender and other programmes referred to in 10.1(b) above, should be represented in employment equity structures and decision-making processes.
- (d) It is the responsibility of all managers to ensure that all aspects of employment equity are implemented and complied with within, the context of their responsibility.
- (e) All managers and employees shall be educated on employment equity and on valuing and managing diversity.

#### **10.2 HOD**

The HOD bears ultimate responsibility for employment equity compliance, including the achievement of a representative workforce.

#### **10.3 Employment Equity Officer and Employment Equity Committee**

- (a) The HOD shall designate or appoint an SMS manager who participates in all employment decision-making structures as an Employment Equity Officer, as prescribed in the Employment Equity Act (EEA).

- (b) The Employment Equity Officer shall advise on and monitor the implementation of employment equity and shall be granted sufficient authority to discharge his/her responsibility effectively.
- (c) A broadly representative Employment Equity Committee, which is a subcommittee of the Workplace Forum and chaired by the Employment Equity Officer, shall be established to advise on and monitor the implementation of employment equity.

## **11. DISPUTE RESOLUTION**

### **11.1 General Statement**

- (a) Employment equity cases relating to sexual harassment and HIV/AIDS will be dealt with in accordance with procedures stipulated in the Sexual Harassment and the HIV/AIDS policies.
- (b) All employment equity disputes will be dealt with expeditiously and with due regard to fairness (procedural and substantive) and human dignity.

### **11.2 Disciplinary Action**

- (a) The Department reserves the right to take disciplinary action, in accordance with the Labour Relations Act 1998 (as amended) and Resolution 2 of 1999 as amended by Resolution 1 of 2003, against any person who violates any provision of this policy
- (b) The procedure to be followed in dealing with employment equity violations will be as stipulated in Resolution 1 of 2003 (*Disciplinary Code and Procedures for the Public Service(DCP)*).
- (c) Sanctions may range from requiring an apology, being ordered to undergo appropriate training, losing merit points, warnings to sanctions such as suspension, demotion and dismissal for gross violations.

### **11.3 Grievance Procedure**

#### **(a) Informal Grievance Procedure**

- i. An employee who feels discriminated unfairly or has some other employment equity grievance may approach his or her manager/supervisor for a resolution.
- ii. If not satisfied with the outcome, the employee may approach a higher authority or the HOD.
- iii. Disputes arising from the interpretation and implementation of this policy shall generally be dealt with by a mediator appointed by the HOD with the consent of the parties. If the mediation fails, then the HOD shall further attempt to mediate in his/her capacity.
- iv. Should all attempts at mediation fail, an employee may seek recourse in external avenues, having followed the procedure outlined in (b) below.

#### **(b) Formal Grievance Procedure**

- i. If the manager/supervisor's response is unsatisfactory, the grievance may be escalated to the Labour Relations Office (**Rule F.1**) to facilitate the resolution of grievances in the department on the prescribed form. (**Rule F.2**) within 90 days (**Rule D.3**) from which the employee became aware of the official act or omission which adversely affects him or her.
- ii. The Labour Relations Office(LRO) must acknowledge receipt on the prescribed form.
- iii. The LRO must liaise with the relevant structures of authority in the Department to attempt to resolve the grievance (**Rule F.3**).

- iv. The LRO must inform the aggrieved employee about the status and the progress made towards the resolution of the grievance **(Rule F.5)**.
- v. If the grievance is resolved to the satisfaction of the aggrieved employee, the confirmation thereof will be reduced to writing by the LRO on the prescribed form.
- vi. If the grievance cannot be resolved the HOD must inform the aggrieved employee accordingly **(Rule F.7)**.
- vii. If the aggrieved employee is still dissatisfied after being supplied with the outcome he or she must inform the executing authority within 10 days.
- viii. the executing authority must in terms of section 35(1) of the Public Service Act of 1994 forward the grievance and any relevant documentation to the Public Service Commission for a recommendation within 5 days of being informed by the aggrieved employee **(Rule F.9 (a) and (b) )**.
- ix. If however the grievance constitutes an alleged unfair labour practice as defined in the Labour Relations Act, the employee may inform the executing authority in writing that he or she wishes to utilise the dispute resolution mechanism provided for in the constitution of the General Public Service Sectoral Bargaining Council and the Public Service Commission should therefore not consider the grievance **(Rule F.10)**.
- x. On receipt of the Commission's recommendations the executing authority must within 5 days inform the employee and the Commission of his or her decision in writing **(Rule G.2)**.
- xi. Appropriate disputes may be taken to the Commission for Conciliation, Mediation and Arbitration (CCMA) or the Equality Court, after exhausting internal procedures.

## **12. MONITORING, EVALUATION AND REVIEW**

- 12.1 The Employment Equity Officer shall, with the assistance of the Workplace Forum and the Employment Equity Committee, monitor, evaluate and advise on the implementation of the Employment Equity Policy.
- 12.2 All performance agreements of managers shall contain applicable employment equity obligations and failure to comply shall attract possible disciplinary action and/or a reduction in the performance bonus.
- 12.3 The Employment Equity Officer, who is directly accountable to the HOD, shall cooperate with all equality officers, including the Gender Focal Point, Disability Officer or Focal Point and the HIV/AIDS Coordinator.
- 12.4 A monthly Employment Equity Report shall be prepared by each SMS manager for their unit and integrated in their performance review.
- 12.5 A departmental Employment Equity Report that is signed by the HOD shall be prepared quarterly and annually by the Employment Equity Officer with the help of the Human Resources Director. Such report is to be summarised in the annual report and submitted to the Department of Labour, as prescribed.
- 12.6 The policy shall be reviewed after every five years in the light of legal, policy and behavioral changes, and appropriate adjustments and amendments shall be ratified and communicated accordingly.

## **13. RELATED POLICIES**

- 13.1 Effective implementation of this policy requires that it be read together with departmental policies on HIV/AIDS, Training and Development, Sexual Harassment, and other Human Resources policies.

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13.2 Other policies to be given consideration include departmental policies on Gender, Disability and Older Persons.

**14. COMMENCEMENT OF THE POLICY**

This policy shall be implemented by the Department with effect from the date of approval and signature by the HOD.

**APPROVED**

  
\_\_\_\_\_  
**OB MONGALE**  
**HEAD OF DEPARTMENT**

21/09/2009  
**Date:**