

**POLICY NAME : EMPLOYMENT EQUITY POLICY**  
**DEPARTMENT : PUBLIC WORKS, ROADS AND TRANSPORT**

## **PREAMBLE**

The Constitution guarantees everyone equity as a fundamental right.

The right to equality includes the full and equal enjoyment of all rights and freedom 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.

The Department of Public Works, Roads and Transport in the North West Provincial Government ("the Department") accordingly adopts this policy as a framework for:

- 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. PURPOSE AND OBJECTIVES**

1.1 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.

1.2 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.

## 2. ABBREVIATIONS AND DEFINITIONS

AIDS:	Acquired Immuno Deficiency Syndrome.
DCP:	Disciplinary Code and Procedures for the Public Service.
EAP:	Employee Assistance Programme.
EEP:	Employment Equity Plan.
HDI:	Historically Disadvantaged Individuals.
HIV:	Human Immunodeficiency Virus.
LRO:	Labour Relations Office.
WSP:	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.
Department:	Department of Public Works, Roads and Transport, 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, 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).

### **3. LEGISLATIVE FRAMEWORK**

3.1. 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

#### **4. SCOPE OF APPLICATION**

- 4.1. This policy is applicable to all employees and prospective employees of the Department.
- 4.2. 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.

#### **5. POLICY STATEMENT**

- 5.1 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.

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

##### **6.1 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.

##### **6.2 Prohibition of Unfair Discrimination**

- (a) All forms of unfair discrimination, whether direct or indirect, are prohibited and it is the responsibility of both the employer and an employees to inform themselves about and refrain from perpetrating unfair discrimination.
- (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 grounds of unfair discrimination (enlisted in the Employment Equity Act) is prohibited.

##### **6.3 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.

##### **6.4 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.

## 6.5 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.

## 6.6 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
- iii. Undergo sensitisation training on non-discrimination, racism, disability, HIV/AIDS and gender equality.

## 7. AFFIRMATIVE ACTION PLANNING & IMPLEMENTATION

### 7.1 Responsibilities

- (a) The Executing Authority and Head of Department 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 Manager at SMS level, with adequate authority and reporting to the HOD, to facilitate employment equity implementation;
- (c) It is the responsibility of the EE Manager to conduct a workplace analysis or audit and to prepare and implement an Employment Equity Plan (EEP) for the Department;
- (d) The Department's Employment Equity Plan (EEP) shall be displayed as prescribed in the Employment Equity Act;
- (e) The Employment Equity Manager in consultation with the line managers shall compile a Workforce 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.

## 7.2 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.

## 7.3 Consultation

- (a) The Department's EEP must be a product of an inclusive consultative process that involves employee representatives under the auspices of the Employment Equity Forum.
- (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.
- (c) Final decisions regarding employment equity planning remain a management prerogative and responsibility.

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

### 8.1 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 adopted to support regular monitoring of all aspects of employment equity.

### 8.2 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 designated groups, 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 exists, 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.

(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 designated 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 representativeness is an issue, the interview and selection should focus on identifying suitably qualified persons and not necessarily the best qualified person.

### 8.3 Appointment and Appointment Processes

- (a) It is the responsibility of the HOD or his/her delegate to ensure that all appointments promote equitable representation of all Designated Groups, particularly in compliance with public service affirmative action targets.
- (b) Appointment on the basis of potential shall be accompanied by a skills development plan which shall be implemented immediately after appointment.
- (c) An induction is an important practice for designated entering through lateral entry or appointed on the basis of potential and should accordingly always be implemented.
- (d) A probation period of an designated appointed on the basis of potential shall be linked to a skills development plan that is informed by the selection process.

### 8.4 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.

## 8.5 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 designated and their equitable representation at all levels of authority.

## 8.6 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.
- (c) 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.

## 8.7 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) 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).

## 8.8 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 performance contracts of all SMS Managers

## 8.9 Transfer

- (a) Voluntary, including cross transfers that facilitate the objectives of employment equity, shall be encouraged.

## 8.10 Demotion

Demotion of designated group 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.

## 8.11 Reasonable Accommodation for People with Disabilities, Workers with family responsibilities and others.



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

#### 8.12 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.

#### 8.13 Termination of Employment

- (a) Employment termination trends shall be reviewed regularly to ensure that designated group are not disproportionately terminated and to identify and address possible unfair discrimination and improve retention, particularly of Designated Groups.

### 9. STRUCTURES, RESPONSIBILITIES AND OBLIGATIONS

#### 9.1 HOD

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

#### 9.2 Employment Equity Forum

The Employment Equity Forum should play a central role in employment equity consultations, monitoring and review. Focal points dealing with gender, disability and HIV/AIDS should be involved in Forum discussions and decisions on employment equity.


#### 9.3 Employment Equity Manager

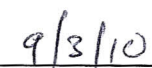
- (a) The HOD shall designate or appoint an SMS manager who participates in all employment decision-making structures as an Employment Equity Manager, as prescribed in the Employment Equity Act (EEA).
- (b) The Employment Equity Manager shall advise on and monitor the implementation of employment equity and shall be granted sufficient authority to discharge his/her responsibility effectively.

### 10. MONITORING, EVALUATION AND REVIEW

The Head of Department or his/ her delegate shall monitor and ensure adherence to all policy provisions and report on specific cases as and when required to do so. If and when this policy or provision is amended, the amended policy thereof will supersede the previous one.

#### APPROVED

  
**MS M. R. NTSHABELE**  
**ACTING HEAD OF DEPARTMENT**

  
**DATE**