

**AGENDA of the
Portfolio Committee : Management Services
8 June 2023
(Also the agenda for the Mayoral Committee Meeting : 12 June 2023)**

**2.
REVISED EMPLOYMENT EQUITY POLICY**

**L Bucchianeri
9 May 2023**

Senior Manager: Human Resources

(028) 313 8120

1. Executive Summary

Overstrand Municipality is committed towards providing democratic and accountable governance and therefore acknowledges its mandate to take affirmative action measures to ensure equitable representation of suitably qualified people from designated groups in all occupational levels. To fulfil its mandate, commitments, and act in compliance with legislation Overstrand Municipality will strive to realise employment equity implementation through this policy and its Employment Equity Plan.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate : Management Services
Department : Human Resources

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Provision and maintenance of municipal services
Creation and maintenance of a safe and healthy environment

4. Delegated Authority

None

5. Legal Requirements

Overstrand recruitment and Selection Policy
Local Government: Municipal Staff Regulations GN 890 of 20 September 2021.
Local Government: Guidelines for the implementation of the Municipal Staff Regulations GN 891 of 20 September 2021.

6. Background/Discussion/Evaluation/Conclusion

Background

This policy provides a link between the legislative framework and the operational institutionalisation thereof in the municipality. It provides a governance tool for the Council that, with the buy-in of all role-players, will be the legitimate driving force for the implementation of employment equity in an organisation-specific manner

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and the development of an Employment Equity Plan which ensures that the Council remains accountable to the principles contained in this policy.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

This item served before the LLF on 11 April 2023, comments were reviewed.

10. Annexures

Annexure A: Employment Equity Policy

RECOMMENDATION TO THE COUNCIL:

that the draft Employment Equity Policy **be approved.**

RESPONSIBLE OFFICIAL :

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION :

JUNE 2023

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9 May 2023**

Senior Manager: Human Resources

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THIS MATTER SERVED BEFORE THE MANAGEMENT SERVICES PORTFOLIO COMMITTEE ON 8 JUNE 2023, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE COUNCIL:

that the draft Employment Equity Policy **be approved.**

RESPONSIBLE OFFICIAL :

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION :

JUNE 2023



OVERSTRAND MUNICIPALITY

EMPLOYMENT EQUITY POLICY

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

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1. INTRODUCTION

- 1.1 Overstrand Municipality is committed towards providing democratic and accountable governance and therefore acknowledges its mandate to take affirmative action measures to ensure equitable representation of suitably qualified people from designated groups in all occupational levels.
- 1.2 To fulfil its mandate, commitments, and act in compliance with legislation Overstrand Municipality will strive to realise employment equity implementation through this policy and its Employment Equity Plan.
- 1.3 This policy provides a link between the legislative framework and the operational institutionalisation thereof in the municipality. It provides a governance tool for the Council that, with the buy-in of all role-players, will be the legitimate driving force for the implementation of employment equity in an organisation-specific manner and the development of an Employment Equity Plan which ensures that the Council remains accountable to the principles contained in this policy.

2. DEFINITIONS

- 2.1 **'Affirmative action'** in employment, means all actions and interventions to eliminate past racial and gender imbalances, overcome barriers to equal employment opportunity, mobilise latent human resources and to offer opportunities for advancement to the previously disadvantaged in a planned and accelerated way. It includes measures to:
- identify and eliminate employment barriers
 - promote diversity in the workplace
 - make reasonable accommodation for people from designated groups to ensure they enjoy equal opportunities and are equitably represented in the workforce
 - ensure the equitable representation of suitably qualified people from designated groups in all occupational levels in the workforce; and
 - to retain and develop people from designated groups and to implement appropriate training
- 2.2 **'black people'** is a generic term and means African, Coloured and Indian persons;
- 2.3 **'candidate'** means an applicant for employment;
- 2.4 **'designated group'** means Black people, women and people with disabilities who –
- (a) are citizens of the Republic of South Africa by birth or descent; or
- (b) became citizens of the Republic of South Africa by naturalisation—
- (i) before 27 April 1994; or
- (ii) 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;
- 2.5 **'non-designated group'** means White males who –
- (a) are citizens of the Republic of South Africa by birth or descent; or
- (b) became citizens of the Republic of South Africa by naturalisation—
- (i) before 27 April 1994;
- 2.6 **'people with disabilities'** means people who have a long term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment;

- 2.7 'diversity' means the range of differences in human demographics including race, gender, religion, sexual orientation, skills and age.
- 2.8 'a suitably qualified person' means a person contemplated in section 20 (3) and (4) of the employment Equity Act.

3. **LEGISLATIVE FRAMEWORK**

- 3.1. EMPLOYMENT EQUITY ACT, 1998 (ACT 55 OF 1998 AS AMENDED)
- 3.2. LABOUR RELATIONS ACT, 1995 (ACT 66 OF 1995 AS AMENDED)
- 3.3. LOCAL GOVERNMENT MUNICIPAL SYSTEMS ACT, 2000 (ACT32 OF 2000 AS AMENDED)
- 3.4. LOCAL GOVERNMENT MUNICIPAL: STRUCTURES ACT, 1998 (117 OF 1998)
- 3.5. SKILLS DEVELOPMENT ACT, 1998 (ACT 97 OF 1998 AS AMENDED)
- 3.6. PROMOTING OF EQUALITY AND PREVENTION OF UNFAIR DISCRIMINATION ACT 4 OF 2000
- 3.7. SOUTH AFRICAN QUALIFICATIONS AUTHORITY ACT, 1995 (ACT 58 OF 1995)
- 3.8. SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL (SALGBC) COLLECTIVE AGREEMENTS
- 3.9. WHITE PAPER: AFFIRMATIVE ACTION IN THE PUBLIC SERVICE
- 3.10. WHITE PAPER OF THE TRANSFORMATION OF PUBLIC SERVICE
- 3.11. WHITE PAPER ON THE RIGHTS OF PERSONS WITH DISABILITIES, DATED 09TH DECEMBER 2015

4. **SCOPE AND APPLICATION**

This Policy applies to the Overstrand Municipality, all its employees and the candidates who apply for employment at Overstrand Municipality, including designated groups and non-designated groups as per Section 2 of the Employment Equity Act.

5. **PURPOSE OF THE POLICY**

5.1 The purpose of the policy is:

- 5.1.1 To transform and maintain Overstrand Municipality as a non-racial and non-sexist institution that seeks to provide redress to previously disadvantaged individuals;
- 5.1.2 To identify and abolish all barriers and policies including unfair discrimination that hampers the employment of and/or advancement of employees;
- 5.1.3 To implement affirmative action measures to redress the disadvantages in employment experienced by individuals from the designated groups namely Black people, women and persons with disabilities;
- 5.1.4 Embracement of diversity as per Section 15 2(b) of the Employment Equity Act;
- 5.1.5 To optimise the potential of all employees in order to achieve municipal transformation as a national goal to enhance the performance of the municipality in serving the community and to achieve an effective and efficient administration;

- 5.1.6 To ensure that Overstrand Municipality is broadly representative of Provincial workforce profile;
- 5.1.7 To serve as a basis for the drafting, completion and continued review of Overstrand Municipality's Employment Equity Plan.

5.2 Underlying the purpose of this policy is the recognition and acknowledgement that:

- 5.2.1 All employees have the right to be treated fairly, equally and to be protected from any form of unfair discrimination while at work including sexual harassment;
- 5.2.2 Past practices did cause unfair discrimination to exist in the workplace that needs to be addressed;
- 5.2.3 Overstrand has already made progress in exercising its legal obligation to establish and maintain fairness and equity in the workplace to ensure an equal employment opportunity environment for all its employees;
- 5.2.4 Implementation of employment equity is an integrated and holistic process involving the entire Municipality and all its employees to expand the skills pool of the Directorates;
- 5.2.5 Overstrand needs to further transform to operate within the current economic, political and legislative framework;
- 5.2.6 Central to such transformation is the development of human potential and the implementation of affirmative action and employment equity aimed to further enhance the effectiveness and efficiency of its administration;
- 5.2.7 Affirmative action is the development tool that must be used to re-evaluate its current policies, practices and procedures and institute specific actions to comply with the applicable legal requirements;
- 5.2.8 Affirmative action is an intervention of specific duration designed to create equal employment opportunities, upholding standards and acting to the advantage of the career aspirations or expectations of employees who are competent in their jobs;

6. PRINCIPLES UNDERLYING THE POLICY

Overstrand Municipality believes:

- 6.1 Nobody should be unfairly discriminated against on the basis of 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 or any other arbitrary ground.
- 6.2 Anyone found unfairly discriminating against anyone else should be subjected to disciplinary action and any unfair discriminatory practices in the work spectrum will be removed;
- 6.3 Special attention must be given to the disadvantaged, e.g. blacks, women and the disabled, and that such preferential treatment shall not be considered unfair discrimination therefore preference in future appointments for groups that are underrepresented in the different occupational levels will form a key feature of achieving employment equity;
- 6.4 Gender equity is of considerable importance to the Municipality and no form of sexual harassment will be tolerated;

- 6.5 Employment equity does not involve making appointments just to meet numerical goals without ensuring that the individual is suitably qualified for the position therefore affirmative action measures will not include the appointment of persons who are not suitably qualified (as defined) for the posts they are expected to fill;
- 6.6 Promotion from within and on merit is the major means of advancement with merit including formal qualifications, relevant prior learning and related experience;
- 6.7 Central to changes focused to ensure, affirmative action and employment equity is the efficient utilisation of the human resources at its disposal;
- 6.8 Recruitment and selection methods must be culture free, non-sexist and carefully evaluated for predictive validity with respect to job performance (e.g. to do the job to the required standards);
- 6.9 Where representivity in an occupational level has been reached or overrepresentivity in an occupational level is evident, fair labour practices of recruitment and selection practices will be applied;
- 6.10 Affirmative action form part of the broader ongoing aim of training and developing all employees in the organisation to fulfil their potential;
- 6.11 Development needs are not only met via the broad approach of providing training, but also through examining the individual's specific training needs;
- 6.12 Each individual must take responsibility and make an effort to develop him/herself;
- 6.13 Development should also take place on the job with senior personnel and colleagues acting within their respective abilities as mentors/coaches;

7. AFFIRMATIVE ACTION MEASURES

7.1. Increasing the pool of available candidates

A policy on recruitment and selection 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.

7.2. 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 levels where they are under-represented.

[Policies regarding selection criteria and selection panels will ensure that fair and non-discriminatory selection procedures be implemented. Such procedures will help contribute to the appointment of suitable candidates from designated groups.]

Further efforts include:

- 7.2.1 Compliance with numerical targets.
- 7.2.2 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.

- 7.2.3 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.
- **[The advancement of designated groups, but bearing in mind that the municipality will not resort to window-dressing, tokenism and favoritism, but will advance designated groups by providing the necessary guidance, training and development, and support.]**

7.3. Training and development of people from designated groups

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:

- 7.3.1 Bursaries for secondary and tertiary education;
- 7.3.2 Job-related training;
- 7.3.3 Training in line functioning, management, and supervisory skills;
- 7.3.4 Learnerships;
- 7.3.5 Internship;
- 7.3.6 Coaching;
- 7.3.7 Mentorship or mentoring programmes or mentorship;
- 7.3.8 Skills programmes; and
- 7.3.9 Diversity management or diversity training.

7.4. [Corrective]Measures to eliminate barriers identified within 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 **[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 does not discriminate in any way against persons from the non-designated groups.]**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.

7.5. 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 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.

8. ROLE-PLAYERS AND RESPONSIBILITIES

The role-players who will be involved in the implementation of employment equity and their responsibilities are further discussed below.

8.1. Management

The Municipal Manager, as the head of the administration and the Employment Equity Manager, is ultimately accountable for the extent to which and the manner and timeframe in which employment equity is implemented. The Municipal Manager assisted by his/her Directors must achieve the objectives set out in the Employment Equity Plan (EEP) while keeping a balance between the requirements to have a suitably qualified workforce in respect of all positions to ensure an effective and efficient administration and the accelerated advancement of persons from designated groups who, in certain circumstances, might involve the appointment of persons with the ability to become suitably qualified through training and development.

The Municipal Manager or his delegated takes responsibility for driving employment equity and champions it at senior management echelons.

The Senior Manager Human Resources and human resources officials in his/her department are responsible for overseeing the implementation of this policy and the administration of employment equity including the analysis, measures, monitoring and evaluation as addressed. Further responsibilities include: an annual update of the EEP to record progress made; ongoing consultation with employees through the Employment Equity Committee regarding analysis of employment barriers and the development of the EEP, updating of numerical goals based on the "relevant labour market" and the prescribed annual reporting to the Department of Labour.

8.2. Local Labour Forum (LLF)

The Local Labour Forum (LLF) is a representative and legitimate body that, in accordance with the Labour Relations Act, Act No. 66 of 1995, is vested with the responsibility to ensure that implementation of inter alia affirmative action and employment equity take place as envisaged in the applicable legislation and this policy and in accordance with the EEP and to monitor such implementation. An ad hoc Employment Equity Committee (EEC) has been established under the auspices of the LLF and will if necessary be utilised to give dedicated attention to this important matter.

8.3. Employees

All employees are expected to respect cultural diversity and to build teams in which such diversity is used as an advantage. Employees whether from designated groups or not are not passive participants in their own or the municipality's advancement, therefore each individual must take responsibility and make an effort to develop him/herself to enable promotion to higher positions.

8.4. Awareness, Consultation & Communication

In accordance with legislative requirements, the municipality has consulted the EEC and LLF, and will further do so as required in respect of:

- 8.4.1.1 any further analysis of its employment policies and practices,
- 8.4.1.2 an update of numerical goals based on the relevant labour market,
- 8.4.1.3 the implementation and annual update of the EEP

To record progress and the Employment Equity Reports (EER) submitted on an annual basis to the Department of Labour.

Copies of this policy and the EEP will be distributed to all parties that take part in the consultative processes of the EEC and LLF. The municipality ensures that all employees take note of this policy and the EEP through it being made available for copying and perusal by employees at the offices of the municipality. Circulars and messages on official notice boards will inform all employees of the availability of the EEP as well as the annually updated EER to make progress visible.

corrective measure. Career planning and development, therefore, becomes an integral part of the development of the human resources, and training is only the first step in the process whereby attained abilities are eventually put into practice. This eventual goal can also be observed in the outcome-based nature of the training provided and the purpose of the training to accelerate the advancement of designated groups within the municipality.

9. COMMUNICATION

Circulars, messages, and notices on notice boards will be utilised in order to inform all employees of the availability of the Employment Equity documentation. Copies of Employment Equity documentation will also be distributed to the parties that took part in the consultation process.

10. RECORD KEEPING

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

11. DISPUTE RESOLUTION

Internal dispute resolution processes shall be followed in the event of any grievances and disputes arising out of the implementation of this policy. For all external candidates, the recognised labour relations mechanisms shall be applied.

12. REPORTING

The Department of Labour has instituted a reporting process consisting of a number of prescribed forms of which two, i.e., the EEA2 and EEA4 forms must be submitted on an annual basis. The EEA2 form deals with progress made in respect of implementation of the Employment Equity Plan and the EEA4 form deals with the remuneration paid to employees in each of the occupational levels in order for the Department of Labour to assess the income differentials of the municipality.

Policy Section:	Human Resources
Current Update:	
Previous Review:	24 June 2015
Approval by Council:	26 November 2008

REVISED