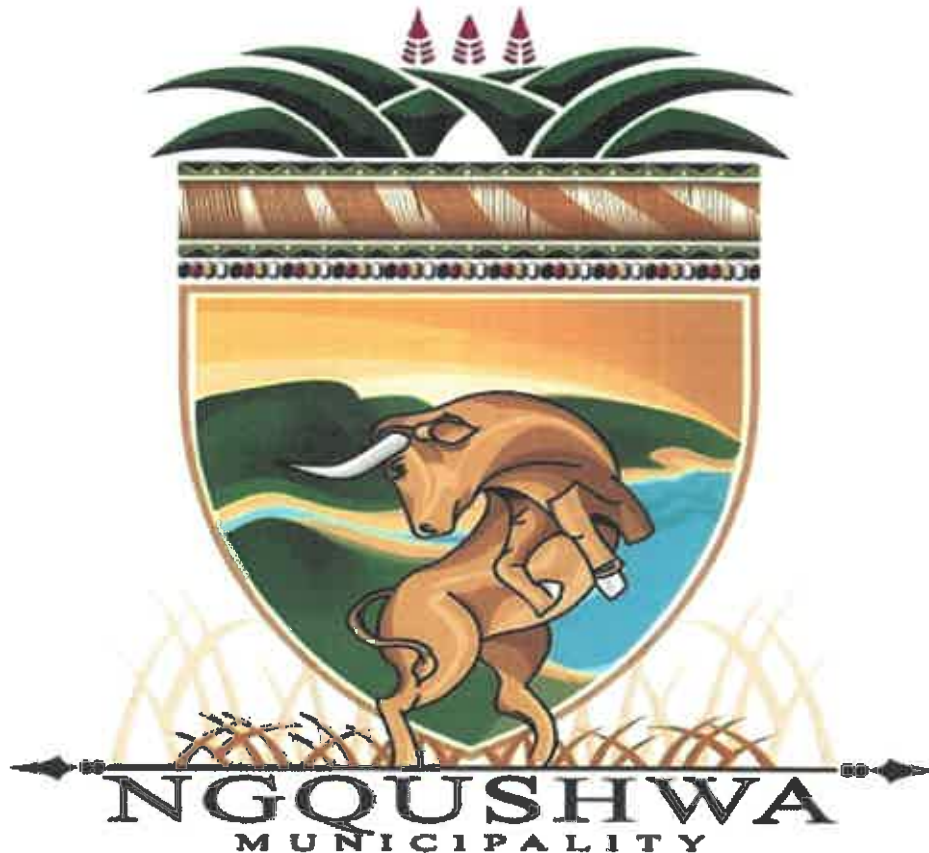


NGQUSHWA LOCAL
MUNICIPALITY



EMPLOYMENT EQUITY POLICY
2022/2023

Summary

Publication Date	11 July 2022
Review Date	19 March 2022
Related Legislation/Applicable Section of Legislation	Municipal Offices Bearers Handbook
Related Policies, Procedures, Guidelines, Standards, Frameworks	Basic Condition of Employment Act, Collective Agreement, Municipal System Act, Employment Equity Act, Municipal Staff Regulations
Replaces/ Repeals (whichever is relevant, if any)	None
Policy Officer (Position)	<i>Director Corporate Services</i>
Policy Officer (Phone)	040 6732 081
Policy Sponsor (Position)	Mkhuseli Mxekezo
Department Responsible	Corporate Services
Unit responsible	Human Resources
Applies to	All staff and External candidates
Key Words	Employment Equity Policy
Status	Reviewed/ Amended
Council approval date	<i>8 July 2022</i>
Version	1

REVISION RECORD

Date	Version	Revision Description
------	---------	----------------------

Contents

1.	NAME OF POLICY.....	85
2.	PURPOSE OF POLICY.....	85
3.	BACKGROUND.....	85
4.	LEGISLATIVE FRAMEWORK.....	86
5.	SCOPE OF APPLICATION.....	96
6.	GUIDING PRINCIPLES.....	97
6.1	Equity.....	97
6.2	Social justice and fairness.....	107
6.3	Transparency.....	107
6.4	Consistency.....	107
6.5	Excellence.....	107
6.6	Communications.....	107
6.7	Commitment.....	107
6.8	Respect for human dignity.....	108
7.	POLICY PROCESS.....	118
7.1	Duty to Eliminate Unfair Discrimination.....	118
7.2	Prohibition of Unfair Discrimination.....	118
7.3	Preferential Treatment.....	129
7.4	Prohibition of Unauthorized Medical Testing.....	129
7.5	Policy and Practice Analysis.....	129
7.6	Developing or Updating a Workforce Profile and Numerical Targets.....	1240
7.6	Consultation.....	1340
7.8	General Statement.....	1340
7.9	Human Resources Planning.....	1344
7.10	Recruitment, Advertising and Selection.....	1444
7.10.1	Recruitment.....	1444
7.10.2	Advertising.....	1444
7.10.3	Selection.....	1542
7.10	Affirmative Action Measures.....	1543
7.12	Job Classification and Grading.....	1643
7.13	Remuneration, Employment Benefits and Terms/Conditions of Employment.....	1643
7.14	Job Assignments.....	1643
7.15	The Working Environment and Facilities.....	1644
7.16	Training and Development.....	1744

7.17	Performance Management	<u>1745</u>
7.18	Promotion	<u>1845</u>
7.19	Transfer	<u>1845</u>
7.20	Demotion	<u>1845</u>
7.21	Termination of Employment.....	<u>1846</u>
8.	ROLES AND RESPONSIBILITIES	<u>1946</u>
8.1	Municipal Manager	<u>1946</u>
8.2	Employment Equity Committee.....	<u>1946</u>
8.3	Human Resource Manager.....	<u>1946</u>
9.	GRIEVANCE PROCEDURE.....	<u>2017</u>
10.	MONITORING AND EVALUATION.....	<u>2017</u>
11.	REVIEW	<u>2017</u>

ABBREVIATIONS

AIDS:	Acquired Immune Deficiency Syndrome
EAP:	Employee Assistance Programme.
EEO:	Employment Equity Plan.
HDI:	Historically Disadvantaged Individuals.
HIV:	Human Immunodeficiency Virus.
ILO:	International Labour Organization.
INDS:	Integrated National Disability Strategy
LRO:	Labour Relations Office.
WSP:	Workplace Skills Plan.

DEFINITIONS

Affirmative Action: means the Systematic employment measures that seek to redress systemic inequalities experienced by black people, women and persons with disabilities in employment opportunities.

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

Disability: means a physical or mental impairment which is long-term or recurring; and which substantially limits a person's prospect of advancement in, employment and other socioeconomic activities.

Employment Equity: means the achievement of equal opportunities in the workplace.

Employment Equity Plan: means a plan drawn in compliance with the Employment Equity Act as a framework for proactive elimination of unfair discrimination and implementation of affirmative measures.

Historically Disadvantaged People: Refers to black people, women, youth and persons with disabilities in recognition of their historical subjection to systematic institutionalized unfair discrimination.

Reasonable accommodation: means one or more measures involving adjustments in employment terms, conditions and the environment, including work design and facilities.

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.

1. NAME OF POLICY

This is the Employment Equity Policy of the Ngqushwa Local Municipality.

2. PURPOSE OF POLICY

To promote equal employment opportunities in the Municipality through elimination of unfair discrimination in the Municipality's employment policies and practices and through affirmative action measures

3. BACKGROUND

The Constitution of the Republic of South Africa guarantees equity as a fundamental right. The right to equality includes the full and equal enjoyment of all rights without discrimination, and incorporates the possibility of remedial measures that seeks to protect and advance persons or groups of persons that have been disadvantaged by unfair discrimination.

The Ngqushwa Local Municipality's Council accordingly adopts this policy as a framework for transforming the Municipality into an employer of choice where women, men, youth and people with disabilities from diverse racial and other backgrounds to enjoy equal chances to serve the nation and are equitably represented in all structures and at all levels.

The Municipality recognizes that its strength lies within its people. Building and maintaining an excellent workforce depends on creating an environment that attracts, develops, and retains talented and capable occupants for all positions. Employment Equity will ensure that the workforce of the Municipality is diverse and reflective of the broader community in order for the Municipality to achieve its strategic objectives

4. LEGISLATIVE FRAMEWORK

This policy must be applied within the South African laws and policy frameworks that underpin employment equity including the following:

- Constitution of the Republic of South Africa;
- Employment Equity Act No. 55 of 1998;
- Promotion of Equality and Prevention of Unfair Discrimination Act, 2000;
- Basic Conditions of Employment Act, 1997;
- Labour Relations Act No 66 of 1998;
- Local Government: Municipal Finance Management Act No.56 of 2003;
- White Paper on Transforming the Public Service;
- White Paper on Affirmative Action in the Public Service;
- Skills Development Act No. 97 of 1998.
- SALGBC Collective Agreements
- The following National and provincial Guidelines:
 - Code of Good Practice on Integrating Employment Equity into Human Resources Practices and Policies, 2005;
 - Code of Good Practice: Key Aspects on the Employment of People with Disabilities, 2002;
 - Code of Good Practice on Key Aspects of HIV/AIDS and Employment;
 - Amended Code of Good Practice on the Handling of Sexual Harassment Cases in the Workplace, 2005;
 - Integrated National Disability Strategy;
 - National Job Access guidelines;

5. SCOPE OF APPLICATION

The policy is applicable to all employees of the Municipality including women and People with Disabilities.

6. GUIDING PRINCIPLES

6.1 Equity

Equity in the workplace is achieved through removal of unfair discrimination that may exist in human resource processes and through the accelerated development of employees in designated groups taking due cognizance of the diversity in ethnic and cultural differences in the municipal community.

6.2 Social justice and fairness

Promoting equity of access and opportunity so that all employees may develop to their full potential. The Municipality should ensure that its human resource practices are based on fairness, ability and the need to redress imbalances of the past. The interests of all relevant stakeholders need to be taken into account.

6.3 Transparency

Providing adequate reasons for decisions made

6.4 Consistency

Being consistent in terms of application of policies and employment practices

6.5 Excellence

To uphold high standards of aspirations in all practices, with continuous attention to improvement of service delivery

6.6 Communications

Ensuring proper consultation with stakeholders and the communication of this policy to all employees

6.7 Commitment

Working on a principle that employment equity belongs to all at the Municipality, individual employees should be encouraged to make their contribution to ensuring an environment that is conducive to valuing diversity

6.8 Respect for human dignity

An organisational culture that displays respect for human dignity irrespective of the diverse backgrounds and creates a sense of belonging.

7. POLICY PROCESS

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

7.2.1 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

7.2.2 Prohibited grounds of unfair discrimination, include one or more of the following:

- i. Race;
- ii. Gender;
- iii. Sex;
- 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,
- xix. Birth, and

xx. Country of origin.

7.2.3 In line with the Municipality'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 Prohibition of Unauthorized Medical Testing

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

7.5 Policy and Practice Analysis

7.5.1 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 identified.

7.5.2 The outcomes of the audit should be communicated to all employees and corrective measures shall be implemented and monitored

7.6 Developing or Updating a Workforce Profile and Numerical Targets

7.6.1 A Workforce Profile, indicating the extent of representation for each Designated Group, shall be regularly developed and/or updated for the Municipality and each unit, in the prescribed format;

7.6.2 The Workforce Profile and Numerical Targets of each unit shall be displayed for all to see; and should be integrated in organisational performance review mechanisms and reflected in the Integrated Development Plan (IDP) of the Municipality.

7.6 Consultation

- 7.6.1 The Municipality'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.
- 7.6.2 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.
- 7.6.3 Final decisions regarding employment equity planning remain a management prerogative and responsibility.

7.8 General Statement

- 7.8.1 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.
- 7.8.2 All employment practices and human resources processes shall be regularly aligned with employment equity requirements and objectives.
- 7.8.3 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.
- 7.8.4 Human resources research and data management shall be adapted to support regular monitoring of all aspects of employment equity.

7.9 Human Resources Planning

- 7.9.1 All human resources planning processes and plans shall be aligned to and contribute to the achievement of employment equity goals and objectives.
- 7.9.2 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.

7.9.3 Succession planning does not mean reserving or promising a job to any person.

7.10 Recruitment, Advertising and Selection

7.10.1 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. (Where disabled are employable, one need to link requirements with skills development programs)
- iv. Affirmative action requirements regarding a post shall be established before advertising and taken into account in advertising strategies.
- v. There should also be flexibility in the recruitment of people with disabilities (head hunting where needed) in line with the provisions of the Employment Equity Act.

7.10.2 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, if possible.
- iii. It is the joint responsibility of the Director: Human Resources and each unit manager on whose structure an advertised post sits, to ensure that as many suitably qualified persons from Designated Groups apply by head hunting and consulting with employment agencies.

- iv. Every job advert shall indicate the Municipality'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.
- v. 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.

7.10.3 Selection

- i. All Selection Committees or Panels shall be gender sensitive and to the extent possible, be inclusive with regard to race and disability.
- ii. Panelists shall be provided with the Municipality's and relevant unit's employment equity profile and plan prior to the short listing and interview processes.
- iii. Standard guidelines for integrating affirmative action considerations in selection processes shall be prepared and integrated in the training of all managers; and
- iv. Where representativeness is an issue, the interview and selection should focus on identifying suitably qualified persons and not necessarily the best qualified person.

7.11 (Renumber rest of document and correct list of contents)'

Affirmative Action Measures

- 7.10.11 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 HD's and an undertaking to correct the situation, should be included.

- 7.10.1 The Municipal Manager may choose not to fill the post if the equitable representation of one or more of the Designated Groups will be severely undermined.
- 7.10.2 It is the responsibility of the Municipal Manager to ensure that all appointments promote equitable representation of all Designated Groups, particularly in compliance with public service affirmative action targets.
- 7.10.3 Appointment on the basis of potential shall be accompanied by a skills development plan which shall be implemented immediately after appointment.

7.12 Job Classification and Grading

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

7.13 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.

7.14 Job Assignments

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

7.15 The Working Environment and Facilities

- 7.15.1 The Municipality shall do everything possible to create an affirming work environment for all employees that are free from harassment and unfair discrimination.

- 7.15.2 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.
- 7.15.3 Creating an affirming and non-discriminatory environment incorporates implementing measures that seek to provide reasonable accommodation to address gender, disability, HIV and other differences.
- 7.15.4 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.
- 7.15.5 Reasonable accommodation measures (workplace more accessible on the kind of person's limitations and needs; removal of physical barriers and access to information and technology).
- 7.15.6 Adjustment to work schedules (on advice of medical practitioner) for Municipal employees with regards to flexible hours.

7.16 Training and Development

- 7.16.1 Unfair discrimination, whether direct or indirect, in training and development is prohibited.
- 7.16.2 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.
- 7.16.3 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 of the Municipality.
- 7.16.4 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).

7.17 Performance Management

- 7.17.1 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.

- 7.17.2 Proportional responsibility for the achievement of employment equity objectives and targets will be reflected in the job descriptions and performance contracts of the Municipal Manager, Human Resources Director, Employment Equity Officer and all Directors and Unit Managers

7.18 Promotion

- 7.18.1 Promotion is an integral part of employment equity in ensuring equitable representation of designated groups at all levels.

- 7.18.2 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'. (Also ensuring they are positioned in the correct posts)

7.19 Transfer

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

- 7.19.2 Where a person from a Designated Group is transferred, the replacement must be from the same or lesser represented Designated Group.

7.20 Demotion

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

7.21 Termination of Employment

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.

Every designated Group resignation must involve a compulsory exit interview that should include an ascertainment of main reasons for the termination of each member of that group.

8. ROLES AND RESPONSIBILITIES

8.1 Municipal Manager

- i. To ensure monitoring, implementation and compliance
- ii. To ensure achievement of representative workforce (meeting goals and targets)
- iii. To ensure appointments of Employment Equity Manager
- iv. To ensure compliance with the provisions of the Employment Equity Act.

8.2 Employment Equity Committee

- i. Participate meaningfully in the development and implementation of the Employment Equity Policy
- ii. Development and implementation of the Employment Equity Plan

8.3 Human Resource Manager

- i. Coordinate the Employment Equity process
- ii. Provide administrative support
- iii. Providing management and Employment equity forum with information.
- iv. Participating in all employment equity decision making structures
- iv. To ensure deliberate efforts are made to recruit, promote, retain and development suitable qualified people
- v. Facilitate the communication, awareness and implementation of the Employment Equity Plan for the Municipality
- vi. Represent the Municipality at various relevant Forums, consult with relevant stakeholders on employment equity, affirmative action measures and give feedback to the Municipality on quarterly basis
- vii. Maintain statistics and report to the Employment Equity Forum on relevant issues including progress made by the Municipality

- ix. Prepare the employment equity report for consultation and submit the report to the Department of Labour on a monthly basis.
- x. Provide advice regarding the Municipality's employment equity statistics to panel members during short-listing and interview process.
- xi. Capture any deviation by the panel members regarding the Municipality Employment Equity Plan during the interview process and facilitate sign off by the Chairperson.

9. GRIEVANCE PROCEDURE

All disciplinary and grievance procedures will be followed as stipulated in the Labour Relations Act and the SALGBC Collective Agreement on Discipline to identify and eliminate unfair discrimination, whether direct or indirect.

10. MONITORING AND EVALUATION

The Employment Equity Manager, as delegated by the Municipal Manager, must ensure compliance to the this policy.


11. REVIEW OF POLICY

Council may annually consider review and or amendment of this Policy, or as and when necessitated by National or Provincial legislation, or as directed by Council.

AS APPROVED BY COUNCIL ON 08TH JULY 2022 UNDER AGENDA ITEM NO 5.1



MUNICIPAL MANAGER



MAYOR OBO COUNCIL