

INTERNAL POLICY

MOHOKARE LOCAL MUNICIPALITY	
SUBJECT: LABOUR RELATIONS, EMPLOYMENT EQUITY AND HARRASSEMENT POLICY	POLICY NO:
DIRECTORATE: CORPORATE SERVICES	COUNCIL ITEM:
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1. INTRODUCTION

The Municipality realises that sound labour relations can only result from mutual respect between an employer and its employees and that such respect is formed where the employer and its employees treat each other fairly and consistently. This policy is designed to achieve the aim of sound labour relations in an open and fair work environment.

2. DEFINITIONS

2.1 In this policy, unless the context indicates otherwise:-

- (a) **“bargaining council”** means the South African Local Government Bargaining Council and includes the division of the bargaining council in whose area the Municipality falls;
- (b) **“Basic Conditions of Employment Act”** means the Basic Conditions of Employment Act 1997 (Act No 75 of 1997);
- (c) **“collective agreement”** means a collective agreement concluded in the bargaining council as contemplated in the Labour Relations Act 1995 (Act No 55 of 1995);
- (d) **“council”** means the Council of the Municipality and includes any political structure, political office-bearer or employee of the Municipality lawfully acting in its stead;
- (e) **“employee”** means a person who works for, or renders a service to, the Municipality regardless of the form of her/his employment contract, and in respect of which any factor enumerated in section 200A(1) of the Labour Relations Act applies;
- (f) **“immediate family member”** means the mother, father, husband, wife, child and siblings of an employee;
- (g) **“Labour Relations Act”** means the Labour Relations Act 1995 (Act No 66 of 1995);
- (h) **“Municipal Manager”** includes a person acting in his/her stead or in terms of a power delegated in writing to her/him by the Municipal Manager;
- (i) **“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No 33 of 2000);
- (j) **“Municipality”** means Mohokare Local Municipality,

- (k) **“Protected Disclosures Act”** means the Protected Disclosures Act 2000 (Act No 26 of 2000);
- (l) **“protected disclosure”** means disclosure of information regarding any conduct of another employee or a councillor by an employee who has reason to believe that the information concerned shows or tends to show one or more of the following:
- (i) that a criminal offence has been committed, is being committed or is likely to be committed;
 - (ii) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which that person is subject;
 - (iii) that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - (iv) that the health or safety of an individual has been, is being or is likely to be endangered;
 - (v) that the environment has been, is being or is likely to be damaged;
 - (vi) unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No, 4 of 2000); or
 - (vii) that any matter referred to in paragraphs (i) to (vi) has been, is being or is likely to be deliberately concealed;
- (m) **“racial and ethnic harassment”** means unwanted conduct based on race, ethnicity, nationality or colour, whether carried out by colleagues or supervisors, which constitutes an intolerable violation of an employee's dignity, irrespective of cultural differences;
- (n) **“relative”** means a parent, adopted parent, grandparent, great grandparent, child, grandchild, great grandchild, sibling, aunt, uncle, niece, nephew, cousin, spouse, and/or life partner;
- (o) **“sexual harassment”** means conduct based on sex, whether carried out by colleagues or supervisors, which constitutes an intolerable violation of an employee's dignity, irrespective of cultural differences;
- (p) **“trade union”** means a trade union that is a party to the bargaining council;
- (q) **“workplace”** means any indoor or enclosed area in which employees perform their work and includes any corridor, lobby, stairwell, elevator, cafeteria, washroom or other common area frequented by employees during the course of their employment.

2.2 Words importing the singular include the plural and vice versa.

2.3 Words importing one gender include the other genders.

3. OBJECTIVES

The objective of this policy is to: -

- To advance economic development, social justice, labour peace and demonstration of the workplace by providing a framework through which employees and employers can collectively bargain on matters of mutual interest;
- To ensure the right to fair labour practice;
- To achieve equality in the workplace by promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination and implementing Affirmative Action measures to redress the disadvantage in employment experienced by designated groups, in order to ensure their equitable representation;
- To develop the skills of the South African workplace and to use the workplace as an active learning environment;
- The Municipality consists of individuals of different sexes, races and cultural creeds - all that we treat equally;
- The Municipality promotes the sharing of ideas and views in an atmosphere of openness and trust between all individuals;
- We believe in fair and open dialogue, should there be a dispute between an individual and the Municipality;
- The Municipality adheres to all labour legislation of South Africa;
- Trade Union Membership Any employee may voluntarily become a member of a trade union as defined in the Labour Relations Act, 1995.

4. RIGHT TO FAIR LABOUR PRACTICE

The Municipality supports, as a general principle and founding value of its human resources management practices, that the Municipality and its employees are entitled to fair labour practices as set out in section 23 of the Constitution of the Republic of South Africa 1996. Further, the Municipality is of the view that the focus of section 23(1) of the Constitution is, broadly speaking, the relationship between employees and the Municipality and the continuation of that relationship on terms that are fair to both parties. In giving content to this right, the Municipality realises and bears in mind that tension is inherent

between the interests of employees and the interests of the employer. The Municipality therefore commits itself to take care to accommodate, where possible, these interests so as to arrive at the balance required by the concept of fair labour practices.

5. WORKPLACE COMMUNICATION

The Municipality believes that channels of communication must exist between management and employees in every workplace.

6. APPOINTMENTS WITH MANAGEMENT AND COUNCILLORS

- (a) An employee, except a departmental head and a person working in her/his office, must make an appointment to consult the Municipal Manager. The employee making an appointment must indicate the subject matter that she/he wishes to raise.
- (b) An employee, except an employee working directly under the supervision of a departmental head must make an appointment to consult her/his departmental head. The employee making an appointment must indicate the subject matter that she/he wishes to raise.
- (c) No employee, except a departmental head, may make an appointment with the Municipal Manager without the prior permission of her/his departmental head. The employee who wishes to make such an appointment must indicate the subject matter that she/he wishes to raise with the Municipal Manager, to her/his departmental head.
- (d) No employee may make an appointment with her/his or another departmental head without the prior permission of her/his immediate supervisor. The employee wishing to make such an appointment must indicate the subject matter that she/he wishes to raise with such departmental head to her/his supervisor.
- (e) Subject to paragraph (h) no employee other than the Municipal Manager or a departmental head may make an appointment with the Mayor, Speaker or any other councillor.
- (f) A trade union has the right to make an appointment with the Municipal Manager or a departmental head to discuss a matter of mutual concern relating to the Municipality or a specific department or a workplace within a department. The trade union making an appointment must indicate the subject matter that it wishes to raise.
- (g) Notwithstanding the provisions of paragraph (e) an employee may make an appointment with a councillor in order to make a protected

disclosure to that councillor in terms of the Protected Disclosures Act.

- (h) Whenever an employee approaches a councillor, except in the circumstances contemplated in paragraph (g) that councillor must advise the employee concerned to follow the correct procedure to bring the matter she/he raised with the councillor to the attention of the Municipal Manager or another employee.

7. CONSULTATIVE STRUCTURE

The Council recognises that the relationship between management and employees will be enhanced and supported by formal consultative structures. For this purpose the Council subscribes to the establishment of the Local Labour Forum as prescribed in the Organisational Rights Agreement.

8. RELATIONSHIP WITH EMPLOYER ORGANISATION AND TRADE UNIONS

- (a) The council affiliates to the South African Local Government Association (SALGA).
- (b) The purpose of the Council's affiliation with SALGA is to promote sound labour relations within the Municipality.
- (c) The Municipality shall subject to its constitutional right to govern, on its own initiatives the local community; adhere to the policies and directives of SALGA.
- (d) The Municipality recognises and subscribes to the right of employee's to form, join and participate in the activities of a trade union. The participation of an employee in the activities of a trade union of which she/he is a member, shall take place in accordance with the provisions of the Organisational Rights Agreement.

9. DISCIPLINE

9.1 Philosophy of discipline

- (a) It is the policy of the Municipality to maintain order in its activities by means of the fair and consistent application of disciplinary procedures, so as to render quality services to communities. Through the consistent and fair application of disciplinary measures, the Municipality wishes its employees to distinguish between acceptable and unacceptable conduct.
- (b) The Municipality promotes a positive approach to discipline. The Municipality wishes to motivate every employee who is capable of

acceptable behaviour to behave correctly.

- (c) The key object of discipline in the Municipality is to ensure that the Municipality and its employees treat one another with mutual respect and fairly. A premium is placed on both employment justice and the efficient operation of business. While employees should be protected from arbitrary action, the Municipality is entitled to satisfactory conduct and acceptable work performance from its employees.
- (d) The prescribed disciplinary measures-
 - (i) serve as a guideline to management to ensure fair and equal treatment of all employees;
 - (ii) encourage timely corrective action in the event of an employee's conduct proving to be unsatisfactory or unacceptable;
 - (iii) ensures that the principles of natural justice are applied before judgement is passed on an employee's conduct; and
 - (iv) is equally applicable to all the employees of the Municipality
- (e) A written acknowledgement of guilt by an employee, who has been accused of misconduct, whether she/he has been formally charged in terms of the relevant collective agreement and whether such acknowledgement is accompanied by a written apology, shall not be adequate reason to postpone, delay or refuse to take disciplinary action.

9.2 Principles underlying discipline in the Municipality

- (a) Every employee must maintain discipline at all times and conduct her/himself in an acceptable manner.
- (b) An employee who allegedly contravened a provision of the disciplinary code has the right -
 - (i) to hear and to receive in writing a charge sheet containing the alleged misconduct in sufficient detail in order for her/him to prepare properly for the enquiry to be held;
 - (ii) to object to the appointment of a specific person as presiding officer at the disciplinary enquiry on the grounds of factual evidence;
 - (iii) to call and cross-examine witnesses;

- (iv) to submit documents in evidence and to inspect any document that is submitted in evidence;
 - (v) to a hearing within a reasonable time after the alleged misconduct took place;
 - (vi) to have an interpreter present during the enquiry to translate the proceedings in the official language she/he prefers;
 - (vii) to be represented at the disciplinary enquiry by an employee, a shop steward or a union official who is willing and able to represent the employee and, if this is not possible or desirable, any suitably qualified person of her/his choice;
 - (viii) to receive timely notice of an enquiry;
 - (ix) to state her/his case in defence of the charges brought against her/him;
 - (x) to a verdict;
 - (xi) to have any previous disciplinary record considered only after her/his guilt had been proven;
 - (xii) to submit extenuating circumstance before a penalty for misconduct is imposed;
 - (xiii) to be notified of the penalty that was imposed;
 - (xiv) to be notified of her/his right to appeal in terms of the SALGBC Collective Agreement on Discipline;
 - (xv) to protection against victimisation as a result of any statements made or actions taken during an investigation or enquiry into alleged misconduct as well as due to membership of any organisation or trade union.
- (c) Disciplinary action against an employee who is a union representative or office-bearer of a trade union may not be instituted without first informing and consulting the relevant union.

9.3 Responsibility for employee discipline

The Municipal Manager is responsible and accountable for the maintenance of discipline in the work place, provided that the Municipal Manager may delegate her/his powers, functions and duties in this regard to a manager directly accountable to her/him.

9.4 Appointment of independent presiding officers, investigators and prosecutors

- (a) The Municipal Manager may appoint a suitable person to serve as presiding Officer provided that the suitable person should be-
 - (i) at a level more senior than the employee(s) who is/are charged;
 - (ii) from within the same department, or from any other department of the municipality, or from another municipality, or be a full-time SALGA official or in the full time employ of Provincial or National Government provided that such a person is not an employee of the judiciary.
- (b) The Municipal Manager shall appoint a person as the Employer Representative to serve the function of prosecution provided that the suitable person should be-
 - (i) at a level more senior than the employee(s) who is/are charged;
 - (ii) from within the same department, or from any other department of the municipality, or from another municipality, or be a full-time SALGA official or in the full time employ of Provincial or National Government provided that such a person is not an employee of the judiciary.
- (c) An independent investigator may include a forensic auditor but not a councillor.

9.5 Employees under the influence of intoxicating substances

- (a) If it is suspected that an employee is under the influence of an intoxicating substance whilst at work, the matter must immediately be reported to her/his immediate supervisor.
- (b) A breathalyser test may be performed with the express consent of the employee concerned after the employee had been informed that the result of the test may be used in an enquiry into alleged misconduct. The results of a breathalyser test may be used in an enquiry.
- (c) An employee is considered to be under the influence of an intoxicating substance if corroborating and reliable evidence to that effect can be presented. Medical evidence or the result of a breathalyser test in connection with the alcohol content of an

employee's blood is not a prerequisite for charging an employee with, or finding her/him guilty of, misconduct.

- (d) If the supervisor, upon investigation finds that the accused employee appears or acknowledges being under the influence of an intoxicating substance, she/ he must send the employee home for the remainder of that work day. The fact that an employee has been sent home does not in any way detract from the relevant supervisor's duty to accuse the employee of misconduct in terms of the prescribed procedure.

9.6 Private and personal affairs

An employee must take care of her/his private and personal affairs outside of official working hours, except where the employee's immediate supervisor gives permission otherwise, within the limits of what is fair and reasonable.

9.7 Municipality's property

- (a) An employee must take all reasonable steps within her/his power and sphere of influence to care for, and protect the property of, the Municipality.
- (b) An employee who is issued with property, utensils, equipment, implements, machinery, vehicles or other items belonging to the Municipality is responsible for their safe-keeping, purposeful use and supervision.
- (c) An employee may not –
 - (i) allow or permit that any property, utensils, equipment, implements, machinery, vehicles or other items belonging to the Municipality be used without authorisation;
 - (ii) make unauthorised use of any property, utensils, equipment, implements, machinery, vehicle or any other items;
 - (iii) permit or allow that any property, utensils, equipment, implements, machinery, vehicle or other items belonging to the Municipality, be removed from any municipal premises without authorisation and neither may she/he remove them; and
 - (iv) repair or restore such property unless authorised to do so.
- (d) An employee must immediately after it has come to her/his attention report to her/his immediate supervisor any defect in or damage to any property, utensils, equipment, implements, machinery, vehicle or

any other item belonging to the Municipality.

9.8 Financial responsibility

An employee must have access to, and keep abreast of the relevant prescripts if she/he is, in the course of her/his duties is responsible for-

- (a) the receipt, handling, custody, depositing or supervision of money, stamps, face value documents or securities; or
- (b) the handling of stock or equipment or other material belonging to the Municipality; or
- (c) accounting or any administrative procedures in connection with the Municipality's financial affairs.

10. COLLECTIVE BARGAINING AND NEGOTIATION

The Council believes that-

- (a) terms and conditions of employment/service must be determined by collective bargaining; and
- (b) bargaining on any matter related to terms and conditions of employment, including remuneration, must be conducted at national level or by a body authorised by the central council of the bargaining council.

11. DISPUTE RESOLUTION

- (a) The Municipality subscribes to the principles of and procedures for dispute resolution as prescribed by the Labour Relations Act. The Council will participate in a bona fide manner in any dispute resolution procedures in an endeavour to resolve disputes as quickly and fairly as possible.
- (b) The Council believes -
 - (i) that, should an individual or collective dispute arise out of the employment relationship, it will best be resolved by dialogue in a climate that is free from extraneous pressures and stress;
 - (ii) that if a deadlock is reached with regard to any matter in dispute, the parties to the dispute must meet at least twice within a period of 10 days to try to resolve the issue;
 - (iii) that, if the dispute is still unresolved after having complied with paragraph (ii), the parties must meet within five days of the

last meeting to consider alternative ways of resolving the dispute; and

- (iv) that the alternative ways of resolving the dispute may include conciliation, mediation, arbitration and labour court proceedings.

12. TERMINATION OF SERVICE FOR INCAPACITY DUE TO POOR WORK PERFORMANCE

- (a) A person (who may not be a councillor) appointed by the Municipal Manager, after consultation with the Director Corporate Services, (hereafter the investigator) must investigate the reasons for an employee's poor performance in every case where it is alleged at any time during an employee's employment that she/he is unsuitable for the job she/he occupies due to poor work performance or it is found that an employee in two consecutive performance appraisals, was appraised as having performed marginally or unsatisfactorily.
- (b) The investigator must on a date agreed with the employee, consult with the employee and the employee's immediate supervisor and departmental head to establish the following-
 - (i) whether the employee has succeeded in complying with the performance standards set by the Municipality;
 - (ii) in the event that the employee did not comply, whether she/he was aware of the standards or whether it could be reasonably expected of the her/him to be aware thereof;
 - (iii) whether appropriate assessment, instruction, counselling, guidance and training were provided to the employee; and
 - (iv) whether the employee after a reasonable time for improvement has still not met the required standards.
- (c) The employee-
 - (i) must be given an opportunity to be heard during an investigation; and
 - (ii) may during such an investigation be assisted by a union representative or a colleague.
- (d) Upon completion of the investigation the investigator must submit a comprehensive written report and recommendation to the Director Corporate Services who must submit the report, together with her/his recommendations, to the Municipal Manager.

(e) The decision of the Municipal Manager in the matter is final.

13. TERMINATION OF SERVICE FOR INCAPACITY DUE TO ILL-HEALTH OR INJURY

(a) A person (who may not be a councillor) appointed by the Municipal Manager, after consultation with the Director Corporate Services, (hereafter the investigator) must investigate whether an employee-

(i) is incapable of performing her/his duties due to poor health or injury; or

(ii) is able to continue working if the employee concerned was absent from work due to illness or injury –

i. for more than two consecutive days at a time on three occasions during any period of three months; or

ii. for a continuous period of 21 days or more.

(b) The investigator must designate at least two medical practitioners to examine the employee and to provide her/him with their reports at the cost of the Municipality.

(c) If the employee exercises her/his right not to submit to medical examination, the investigation must continue. In such event the investigator must investigate all other available evidence.

(d) During an investigation in terms of this paragraph the investigator must take the following into account:

(i) the nature of the employee's job;

(ii) the period or periods of absence of the employee due to illness or injury;

(iii) the cause of any disability or illness arising during the employee's employment with the Municipality;

(iv) the nature, seriousness and extent of the employee's illness or injury;

(v) whether the employee is able to perform the job with or without reasonable accommodation and, if so, the extent to which the employee is able to perform the job in order to avoid dismissal, including (but not limited to) any of the following-

- i. placing the person in an alternative position if she/he is able to perform the functions allocated to that job, whether on the same or a lower level and
 - ii. adjusting the working hours or place of work, to provide for more convenient circumstances for the employee; and
- (e) the degree to which the employee's working conditions or duties can be adapted or the temporary replacement of the employee during her/his absence in order to avoid dismissal.
- (f) The employee has the right-
- (i) to be heard during the investigation; and
 - (ii) to be assisted during such investigation by a union representative or a colleague.
- (g) The investigator must submit her/his report and recommendation to the Director Corporate Services who must submit it together with her/his comments and recommendation, to the Municipal Manager for consideration.
- (h) The Municipal Manager's decision in the matter is final.

14. TERMINATION OF SERVICE DUE TO THE MUNICIPALITY'S OPERATIONAL REQUIREMENTS

Whenever the Municipality contemplates –

- (a) dismissing less than 10 employees due to the Municipality's operational requirements it shall do so in terms of section 189 of the Labour Relations Act; or
- (b) 10 or more employees due to the Municipality's operational requirements it shall do so in terms of section 189(A) of the Labour Relations Act.

15. RETIREMENT

6.12.1 An employee who-

- (a) is a member of a retirement fund must retire on the first day of the month following the month during which she/he reaches retirement age as determined by the rules of the fund concerned; and
- (b) is not a member of a retirement fund must retire on the first day of the month following the month during which she/he becomes eligible for a social old age pension.

6.12.2 Subject to the rules of the retirement fund concerned an employee may terminate her/his services and retire on early pension. The employment of an employee who contemplates retiring on early pension must be terminated on the first day of the month following the month during which the retirement fund concerned approved her/his application to retire.

6.12.3 The Municipality shall-

(a) timely inform the relevant retirement fund or the national or provincial government department concerned, as the case may be, in writing of the retirement of an employee in terms of this policy and transmit a copy of such notice to the employee concerned;

(b) in the case of an employee who is due for retirement who does not belong to a retirement fund assist the employee to apply for the relevant pension; and

(c) pay to an employee contemplated in par. 6.12.1(b) a gratuity equal to three months' salary plus one week's wages for every year completed service with the Municipality or any predecessor in law of the Municipality on the date contemplated in par. 6.12.1(b).

6.12.4 Nobody may whilst she/he receives a pension (excluding a pension as a widow), be remunerated as an employee of the Municipality.

6.12.5 Any employee, who, on the date of this policy coming into operation has reached retirement age as set out in paragraph 6.12.1, shall be notified accordingly. The Municipal Manager shall forthwith make the necessary applications as may be required. The employment of an employee, who has been notified in terms of this subparagraph, shall be terminated with effect from the first day of the second month after having been so notified

16. MANAGEMENT OF INDUSTRIAL ACTION

(a) The Municipality endorses the right of employees to strike and to embark on other forms of industrial action as determined by the law.

(b) Whenever employees of the Municipality embark on a strike or other industrial action that causes two or more employees to be absent from work, the principle of no work, no pay applies in respect of such absent employees. The full amount of pay forfeited by an employee for her/his absence from work as contemplated in this paragraph shall be done once-off.

(c) The Municipality shall not grant any application for leave of absence

to an employee for the purpose of participating in a strike or other industrial action.

- (d) The Municipality commits itself to protect its property against destruction and damage and the safety and security of its employees, councillors and residents within the Municipality during any strike or other industrial action by employees and shall for this purpose-
 - (i) make appropriate and reasonable security arrangements;
 - (ii) not allow any industrial action to take place on or in any premises of the Municipality; and
 - (iii) take appropriate action, including disciplinary action and litigation, against any employee or union concerned who, whilst participating in a strike or other industrial action, causes damage to or destructs property of the Municipality or who harasses, intimidates, assaults or coerces any person during the course of such action or in preparation thereof.
- (e) Any employee claiming or alleging that she/he was harassed, intimidated, assaulted or coerced into or for not participating in a strike or other industrial action or who claims that she/he feared for her/his life or property during a strike, must submit a sworn written affidavit to that effect to the Director Corporate Services in order for the Municipality to take appropriate action.
- (f) The Municipal Manager must, in consultation with such other managers as she/he may determine, develop and maintain a written strike management plan for the management of strikes and other industrial action by employees of the Municipality.

17. EMPLOYMENT EQUITY

The Municipality recognises the need to redress past discriminatory treatment of persons from designated groups and to eventually establish an environment where “employment equity” prevails. Every effort will be made to establish a representative workforce as quickly and equitably as possible, through transparent and legitimate processes that do not impact negatively on the quality of service delivery, and that emphasize the identification of potential and the development thereof through appropriate systems, processes and performance and career management and training and development practices.

17.1 Objectives

The objectives of this policy are –

- (a) to transform the Municipality into a non-racial, non-sexist

institution;

- (b) to ensure that the Municipality's workforce is composed in such a manner that it is able to serve the community effectively and fairly;
- (c) to ensure that the Municipality's employees have equitable access to learning programmes offered by the Municipality and other institutions;
- (d) to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the Municipality's workforce; and
- (e) to address racial and sex imbalances in the workforce by means of an affirmative action programme that enables individuals from designated groups to compete fairly with other candidates for jobs that may be available in the municipality.

17.2 Principles

The following principles underlie and inform this policy –

- (a) All things being equal, the candidate for appointment or promotion that is from a designated group will be given preference.
- (b) Only candidates who are suitably qualified for a particular position will be appointed or promoted to that position. A person is suitably qualified for a position as a result of any one of, or any combination of that person's formal qualifications, prior learning, relevant experience or capacity to acquire, within a reasonable time, the ability to do the job.
- (c) Appointments and promotion shall be done taking into account the Municipality's approved employment equity plan.
- (d) Access to learning opportunities shall be granted in accordance with the Municipality's work place skills plan.
- (e) Disability shall not be a disqualifying criterion for appointment, promotion or training opportunities unless the nature of the person's disability will disadvantage her/him in achieving the reasonable work standards of the position concerned.
- (f) Age shall not be a disqualifying criterion for appointment, promotion or accessing training opportunities, provided that the person concerned has not yet achieved retirement age as stipulated by the Municipality and is older than 16 years of age.

17.3 Recruitment

Subject to the Municipality's recruitment policy special efforts shall be made to encourage candidates from designated groups to apply for vacant positions that are advertised.

17.4 Monitoring and evaluation of the employment equity plan

The Council shall establish a Transformation Committee (hereafter referred to as the committee). The Committee shall meet as often as is necessary but at least once during every month.

(a) The functions of the Committee are as follows –

- (i) Consider the job description and job specification of every vacancy that may have arisen since its last meeting in order to ensure that job specifications are aligned to job duties.
- (ii) Receive and consider reports regarding the filling of vacancies on a six monthly basis and compliance with the Municipality's employment equity plan.
- (iii) Receive and consider quarterly reports regarding the implementation of the Municipality's workplace skills plan.
- (iv) Receive and consider quarterly reports regarding the granting of study assistance to employees in terms of the Municipality's study assistance scheme.
- (v) Receive quarterly reports regarding any incidents of alleged harassment, discrimination and racism.
- (vi) Review and adjust the employment equity plan as may be required.
- (vii) Supervise the preparation of the Municipality's annual employment equity report to be submitted to the Director-General of Labour in terms of section 21 of the Employment Equity Act 1998.
- (viii) Ensure the display at the workplace where it can be read by employees a notice in the prescribed form, informing them about the provisions of the Employment Equity Act 1998 as required by section 25 of the Act.
- (ix) Prepare a successive employment equity plan in terms of

section 23 of the Employment Equity Act 1998.

- (x) Make proposals to the Mayoral Committee regarding the assignment of a senior manager or managers to take responsibility for monitoring and implementing an employment equity plan in terms of section 24 of the Employment Equity Act 1998.
- (xi) Ensure that the relevant department establishes and, for the prescribed period, maintains records in respect of the workforce, the employment equity plan and any other records relevant to its compliance with the Employment Equity Act 1998.
- (xii) Oversee the preparation of, approve and ensure the submission to the Employment Conditions Commission of a statement on the remuneration and benefits received in each occupational category and level of the Municipality's workforce.
- (xiii) Advise the Mayoral Committee with regard to the affirmative action measures that should be taken to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of the Municipality.

(b) The Committee shall consist of –

- (i) two councillors designated by the Council, one of whom must be the chairperson of the human resources portfolio committee;
- (ii) two representatives designated by the South African Municipal Workers' Union;
- (iii) one representative designated by every other trade union representing employees in the Municipality;
- (iv) the Municipal Manager; and
- (v) departmental heads.

17.5 Training and learning

- (a) Training programmes must be designed and participation in training programmes must aim to enhance the skills and knowledge of employees in order to enhance career development.
- (b) Supervisors and departmental heads are responsible and

accountable for ensuring the improvement of the skills, knowledge and attitudes of the employees assigned to their work teams and departments in order to –

- (i) meet the prescribed work standards of the Municipality; and
- (ii) advance their career and promotional prospects within and outside the Municipality.

18. GENERAL PROHIBITED PRACTICES REGARDING EMPLOYMENT

Nobody may unfairly discriminate, directly or indirectly, against an employee of, or a person seeking employment with, the Municipality on any ground where such discrimination causes or perpetuates systemic disadvantage, undermines human dignity or adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on a listed ground, including –

- (a) Race
- (b) Gender
- (c) Sex
- (d) Pregnancy
- (e) Marital status
- (f) Ethnic or social origin
- (g) Colour
- (h) Sexual orientation
- (i) Age (subject to paragraph 2.5(c) and (d))
- (j) Disability
- (k) Religion
- (l) Conscience
- (m) Belief
- (n) Culture
- (o) Language
- (p) Birth
- (q) Place of birth
- (r) HIV status
- (s) Political opinion

Nobody may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any employee of, or person seeking employment with, the Municipality that could reasonably be construed to demonstrate a clear intention —

- (a) to be hurtful or to embarrass one or more employees or persons seeking employment;

(b) to be harmful or to incite harm to one or more employees or persons seeking employment;

(c) to promote or propagate hatred against one or more employees or persons seeking employment.

Nobody may harass an employee of, or person seeking employment with, the Municipality.

Unless a post exists into which such person may be appointed, transferred, promoted or demoted, as the case may be, no person may be –

(a) appointed to the Municipality 's service;

(b) transferred from one post to another;

(c) promoted to a higher position; or

(d) demoted

An employee on the permanent establishment of the Municipality may not be transferred, promoted or demoted to a post on the temporary establishment.

No employee may be promoted to a position of manager directly accountable to the Municipal Manager. However, nothing in this policy prohibits an employee to apply for a position of manager accountable to the Municipal Manager or Municipal Manager and to be appointed to such a position. The appointment of an employee as a manager directly accountable to the Municipal Manager or Municipal Manager shall be subject to such terms and conditions, including remuneration, as may be agreed upon between the Municipality and the employee at the date of her/his appointment.

No person appointed to a position in the Municipality may assume her/his duties until and unless-

(a) a written employment contract has been entered into with her/him, if she/he has been appointed to a position contemplated in section 57 of the Municipal Systems Act; or

(b) she/he has received and acknowledged receipt of a letter setting out her/his particulars of employment contemplated in section 29 of the Basic Conditions of Employment Act in any other case.

2.4.1 An employee who expresses interest in another position within the Municipality will not jeopardize his/her current position or career prospects with the Municipality.

2.4.2 Nobody may disclose to another person, any information she/he may have relating to the medical status of another person without the consent of such other person.

19. GENERAL CONDITIONS OF EMPLOYMENT

No person may be appointed to a vacancy in the Municipality's service -

- (a) unless she/he is a South African citizen or has permanent residential status or a valid work permit, provided that no person may be appointed for a period that exceeds the period of validity of her/his work permit, if any;
- (b) unless she/he is proficient in two official languages, one of which must be English, if she/he is an office worker or will occupy a position requiring her/him to communicate with members of the public on a regular basis;
- (c) unless she/he is at least 16 years of age or older;
- (d) if she/he has reached the age of 65 years;
- (e) if she/he, directly or indirectly, approaches or canvasses a councillor or employee with a view to securing that councillor or employee's vote or support in favour of her/his appointment;
- (f) if she/he offers to perform the duties attached to the position for which she/he is a candidate for less than the remuneration that the Municipality offers;
- (g) if she/he is a member of Parliament or a provincial legislature or a councillor of the Municipality at the time when the position is advertised;
- (h) unless she/he has the formal qualifications, acquired prior learning, relevant experience or has the capacity to acquire, within a reasonable time, the ability to do the job, provided that if such an appointment is made, such person may not be appointed on a higher salary notch than the minimum notch applying to the position in question neither may she/he progress in such a salary scale until such time as she/he complies with those requirements.

20. SEXUAL HARASSMENT

20.1 Introduction

- (a) The Municipality recognises that everyone has the right to work in an environment that is safe, healthy, amicable and free of sexual harassment.
- (b) All managers, supervisors and employees are required to ensure that their co-employees and persons seeking employment are treated equitably. They must ensure that every reported incident of sexual harassment is treated seriously and sympathetically, that investigations are thorough and confidential and that neither complainants, witnesses nor the accused are victimised in any way.
- (c) Disciplinary action must be taken against anyone who, on the face of it:
 - (i) is guilty of sexually harassing a fellow employee or person seeking employment.
 - (ii) lodges a false complaint.
- (d) This policy applies equally to sexual harassment of a victim by a person of the opposite and by a person of the same sex.

20.2 Manifestations of sexual harassment

- (a) Sexual harassment may consist of any or all of the following:
 - (i) sexual advances;
 - (ii) requests for sexual favours in return for employment benefits;
 - (iii) verbal abuse with sexual overtones;
 - (iv) innuendos, including remarks or insinuations about a person's sex life or private life;
 - (v) suggestive remarks about a person's appearance, body or clothing;
 - (vi) physical contact;
 - (vii) obscene gestures;

- (viii) indecent exposure;
 - (ix) staring, leering, whistling;
 - (x) display of sexually offensive or explicit material, including posters, magazines, pictures or objects;
 - (xi) direct sexual proposition;
 - (xii) continued pressure for dates and sexual favours;
 - (xiii) letters or calls of a sexual nature;
 - (xiv) any of the above as a form of coercion or blackmail for advancement, or for lack of advancement or dismissal if the recipient refuses;
 - (xv) any other unwelcome form of physical or verbal behaviour that has sexual overtones.
- (b) Whenever an employee experiences sexual harassment, she/he must indicate clearly and immediately that she/he does not approve of what is being said, done or suggested.

20.3 Procedure for reporting sexual harassment

- (a) Any employee who feels that she/he has been harassed is encouraged to bring the matter to the attention of her/his immediate supervisor, divisional head, departmental head or the Municipal Manager.
 - (b) The person to whom a complaint of sexual harassment is made must immediately investigate the allegation as confidentially as possible and, if on the face of it the complaint seems valid, bring appropriate charges of misconduct against the perpetrator.
 - (c) Whether or not a complaint of sexual harassment was founded, management must ensure that any victimisation of a complainant that may result from lodging such a complaint is dealt with immediately and severely. Likewise, disciplinary steps must be taken against anyone who falsely accuses someone else of sexually harassing her/him.
- 2.4.3 Provocative dress is no excuse for sexual harassment. Any person investigating a complaint of sexual harassment or presiding during a disciplinary case involving sexual harassment, must disregard provocative dress of the complainant as an excuse or reason for, or defence against, the accused conduct.

21. RACIAL AND ETHNIC HARASSMENT

21.1 Introduction

- (a) The Municipality recognises the right of every employee to work in an environment that is safe, healthy, amicable and free of racial and ethnic harassment.
- (b) All managers, supervisors and employees are required to ensure that their co-employees are treated equitably. They should ensure that every reported incident of racial and ethnic harassment is treated seriously and sympathetically, that investigations are thorough and confidential, and that neither complainants, witnesses nor the accused are victimised in any way.
- (c) Disciplinary action must be taken against anyone who, on the face of it:
 - (i) is guilty of harassing a fellow employee based on her/his race or ethnicity.
 - (ii) lodges a false complaint.

21.2 Manifestations of racial and ethnic harassment

- (a) Racial and ethnic harassment may consist of any or all of the following:
 - (i) racist jokes and insinuations;
 - (ii) banter with racial or ethnic undertones;
 - (iii) insults of a racial or ethnic nature;
 - (iv) taunting based on race or ethnicity;
 - (v) graffiti with racial or ethnic content;
 - (vi) shunning people because of their race, colour, nationality or ethnic origin and background;
 - (vii) excluding colleagues from conversations based on their race, colour, nationality or ethnic origin and background;
 - (viii) being condescending or depreciating about the way colleagues dress or speak.

- (b) Whenever an employee experiences racial or ethnic harassment, she/he must indicate clearly and immediately that she/he does not approve of what is being said, done or suggested.

21.3 Procedure for reporting racial and ethnic harassment

- (a) Any employee who feels that she/he has been harassed is encouraged to bring the matter to the attention of her/his immediate supervisor, divisional head, departmental head or the Municipal Manager.
- (b) The person to whom a complaint of racial or ethnic harassment is made must immediately investigate the allegation as confidentially as possible and, if on the face of it the complaint may be valid, bring appropriate charges of misconduct against the perpetrator.
- (c) Whether or not a complaint of racial or ethnic harassment was founded, management must ensure that any victimisation that may result later from lodging such a complaint is dealt with immediately and severely. Likewise, disciplinary steps must be taken against anyone who makes a false accusation of racial or ethnic harassment.