



MOGALE CITY LOCAL MUNICIPALITY

# EMPLOYMENT EQUITY POLICY

2023 -2024

## DOCUMENT MANAGEMENT

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## **1. EXECUTIVE STATEMENT**

Mogale City Local Municipality is committed to redressing inequality and building social justice through conscious interventions to return dignity to the formerly historically disadvantaged by amplifying their voices. Also introducing measures to prevent and eliminate discrimination by introducing affirmative action measures to bring about equitable representation in all levels of categories of the workforce.

## **2. INTRODUCTION**

The South African constitution asserts that **employment equity is necessary to ensure equality**. Section 9(2) of the constitution provides that “Legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken.”

The Employment Equity policy is aimed at ensuring redress through targeted recruitment strategies designed to improve the representation of designated groups and the creation of an inclusive and diverse workplace. The spirit of the EE Policy is to champion an organisational culture of inclusivity and respect for all employees and ensure equal opportunity and fair treatment in all aspects of employment including recruitment, promotion, training, and advancement.

The EE Policy is designed to provide decision-makers with the guiding principles to make defensible decisions in a reasonable, fair, and justifiable manner. Integral to this policy is not only compliance but also commitment to redress, inclusivity, and diversity.

### **2.1 Rationale and Objectives of the Employment Equity Policy**

The rationale and purpose of this Policy is to:

- 2.1.1 To state the role of Mogale City Local Municipality in respect of execution of its EE obligations.
- 2.1.2 To achieve Equity in the workplace by:
  - 2.1.2.1 Promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination.
  - 2.1.2.2 Implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups to ensure their equitable representation in all levels and categories of the workforce.
- 2.1.3 To provide a guideline for employees and the EE Committee/ EE governance structures to use when dealing with EE matters.
- 2.1.4 To ensure that the Municipality upholds fair and objective principles and procedures for the staffing, development, retention and exiting of employees.

## **2.2 Legislative Frameworks**

The applicable legislative framework includes, but not limited, to the following:

- 2.2.1 The Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)
- 2.2.2 The Employment Equity Act 55 of 1998, the Employment Equity Regulations of 2014 and the Employment Equity Codes of Good Practice, as amended
- 2.2.3 The Skills Development Act (no.97 of 1998)
- 2.2.4 Promotion of Equality & Prevention of Discrimination Act (2000)
- 2.2.5 The Labour Relations Act (no. 66 of 1995 Section 23 & 31)
- 2.2.6 The Basic Conditions of Employment Act (no. 75 of 1997)
- 2.2.7 Codes of Good Practice – Gazetted (Regulations)

## **2.3 Operating Frameworks**

- 2.3.1 Sector Charters
- 2.3.2 BBBEE
- 2.3.3 Skills Development
- 2.3.4 Workforce Planning and Human Resource Development
- 2.3.5 Business Planning

## **3. ACRONYMS, ABBREVIATIONS AND DEFINITIONS**

### **3.1 Acronyms**

<b>ACRONYM</b>	<b>DEFINITION</b>
BBBEE	Broad-based Black Economic Empowerment
DOL	Department of Labour
EAP	Economically Active Population
EE	Employment Equity
EEA	Employment Equity Act
EE&T	Employment Equity Forum
MCLM	Mogale City Local Municipality

### 3.2 Definitions

For this policy, the following definitions apply:

TERM	DEFINITIONS
Affirmative Action	Means measures developed in response to barriers identified in the analysis report (EEA12) to ensure that suitably qualified persons from designated groups have equal employment opportunities and are equitably represented in all occupational categories in the workforce.
Barriers	Means any obstacle to the implementation of EE and affirmative action as identified by the institutional barrier analysis and set out in the objectives MCLM's current EE Plan.
Broad-based Black Economic Empowerment	Integrated and coherent socio-economic process that will directly contribute to the economic transformation in South Africa and will bring about a significant increase in the numbers of Black people that manage, own, and control the country's economy as well as significant decreases in income inequalities.
Black People	Is a generic term which means Africans, Coloureds, Indians and Chinese
Designated Employer	Means – (a) A person who employs 50 or more employees. (b) A person who employs fewer than 50 employees but has a total annual turn-over that is equal to or above the applicable annual turn-over of a small business in terms of the Schedule 4 of the EE Act. (c) A municipality, as referred to in Chapter 7 of the Constitution. (d) An organ of state as defined in section 39 of the Constitution, but excluding local spheres of government, the National Defence Force, the National Intelligence Agency, and the South African Secret Service; and (e) An employer bound by collective agreement in terms of section 23 or 31 of the Labour Relations Act, which appoints it as a designated employer in terms of this Act, to the extent provided for in the agreement.
Designated Groups	Means black people, women, and people with disabilities
Employee	Means any person other than an independent contractor who - (a) who works for another person or for the State and who receives, or is entitled to receive, any remuneration, and

TERM	DEFINITIONS
	(b) in any manner assists in carrying on or conducting the business of an employer.
Employer	Refers to the Mogale City Local Municipality
Employee	Means a person employed by the Employer and shall include a permanent employee or an employee as defined by the Act
Employer	Refers to Municipalities that fall under the jurisdiction of the Gauteng Division of the SALGBC
Employment Equity Senior Manager	Manager Human Resource Management
Employment Equity Forum	Refers to the forum for consultation on Employment Equity as required by the Act and it advises the Accounting Officer and Senior Managers employment equity matters.
Employment policies, practices, and procedures	Includes, but is not limited to – <ul style="list-style-type: none"> <li>a) Recruitment procedures, advertising, and selection criteria.</li> <li>b) Appointments and the appointment process.</li> <li>c) Job classification and grading.</li> <li>d) Remuneration, employment benefits and terms and conditions of employment.</li> <li>e) Job assignments.</li> <li>f) The working environment and facilities.</li> </ul>
Impairment	<ul style="list-style-type: none"> <li>a) Physical impairment means a partial or total loss of a bodily function or part of the body. It includes sensory impairment such as being deaf, hearing impaired, or visually impaired.</li> <li>b) Mental impairment means a clinically recognized condition or illness that affects a person's thought process, judgement, or emotions</li> <li>c) Long-term impairment – has lasted or is likely to persist for at least twelve months.</li> <li>d) Recurring impairment – is one that is likely to happen again and to be substantially limiting, includes a constant chronic condition.</li> </ul>
Inherent Requirements of the job	Means tasks which are essential to perform a job and without which the position or the job cannot successfully function. It is a characteristic which must be necessary for effectively carrying out the duties attached to a position.
Management	Means the Municipal Manager, Executive Managers, Managers, Assistant Managers and Supervisors
Municipality	Means a metropolitan, local or district municipality established in terms of section 12 of the Municipal Structures Act
Occupational Levels	Means or refers to occupational levels within organizations as determined using different job evaluation or grading systems. Guidelines on 'Occupational Level' are provided in EEA9 Annexure of the EE Regulations, 2014, as amended.

Persons with disabilities	Persons are considered as 'Persons with disabilities' if they have a physical or mental impairment which is long-term (i.e., the impairment that has lasted or is likely to persist for at least twelve months) or recurring, which substantially limits their prospects of entry into, or advancement in employment.
Reasonable Accommodation	Means any modification or adjustment to a job or to the working environment that will enable a person from a designated group to have access to or participate or advance in employment.
'Recognition of Prior Learning' (RPL)	Means a process by which individuals who had gained skills and knowledge through informal, non-formal or experiential learning can be assessed, recognized, and awarded credits for such learning if it meets the requirements of a National Qualification Framework registered qualification or part qualification.
Trade Union(s)	Means either IMATU and/ or SAMWU or A Trade Union with organizational rights in terms of the Labour Relations Act (Act 66 of 1995)
Substantially limiting	a) In its nature, duration of effects, it substantially limits the person's ability to perform the essential functions of the job for which they are being considered. b) Not if easily controlled, corrected, or lessened such as use of spectacles or contact lenses
Suitably qualified person	Means a person may be suitably qualified based on the formal qualifications, prior learning, relevant experience, or capacity to acquire, within a reasonable time, the ability (attributes, skills, and competencies necessary) to perform a job. A person may be deemed to be "suitably qualified" for a job as a result of any one of or a combination of the aforementioned.

#### 4. SCOPE AND APPLICABILITY

The EE Policy is applicable to all permanent employees, employees appointed on a fixed-term contract, temporary employees who are on MCLM's payroll and job applicants of the Municipality.

#### 5. KEY PRINCIPLES

MCLM shall realize the objectives of creating an equitable work environment for all employees, by interpreting and implementing the EE Policy in accordance with the following key principles:

- 5.1 The talent sourcing/ recruitment policies and its implementation will be fundamentally aimed at matching the staffing resources to the strategic and operational needs of the Municipality and ensuring the full utilization and continued development of all employees.



- 5.2 The Employment Equity strategies are developed in consultation with employees and their representatives via the various consultative fora.
- 5.3 All aspects of talent management (the staffing, structuring, recruitment, selection, interviewing, appointment, development, promotion, retention, and termination) of employees will be non-discriminatory, except as provided in this policy with reference to Employment Equity and will afford employees equal opportunity to grow and develop.
- 5.4 The equitable representation of designated groups in all occupational levels shall be fulfilled in a fair and equitable manner. Special consideration shall be applied to progressively address under-representation of designated groups.
- 5.5 The Municipality shall promote an organizational culture of respect for the dignity, inclusivity and non-marginalization of all its employees.
- 5.6 Transparency: All Employment Equity measures and decisions shall be taken in a transparent and justifiable manner.

## 6. ROLES AND RESPONSIBILITIES

The implementation of the EE Policy is the responsibility of the Human Capital Management in conjunction with Executive Managers and Line Managers.

DIVISION/ DESIGNATION	RESPONSIBILITY
Council	Approve the Employment Equity Policy
Municipal Manager	a) Is responsible for implementation of EE, taking affirmative action measures and ensuring compliance with the provisions of the EEA, as amended. b) Shall duly appoint Employment Equity Manager/s as stipulated in section 24 of the EEA, as amended. c) Provide the Manager/s with the authority and means to perform their functions. d) Ensure that the Manager/s perform their functions
MCLM Management	a) Carry joint primary responsibility for the implementation and monitoring of the EE Policy. b) Responsible for the implementation of the EE Policy and EE Plan
Employment Equity Senior Manager (EE Manager)	a) Responsible for establishing the appropriate organizational structures, compliance procedures and monitoring mechanisms, including the regular collation of information, workforce data and analysis, the conducting of equity audits regarding any aspects of employment
Employment Equity Forum	a) Is responsible for advising on EE targets and requirements during recruitment and selection processes. b) To consult in respect of the employment equity policies, procedures, and practices, including preparation and implementation of an EE Plan which, inter alia, must set out its numerical goals and the affirmative action measures to achieve EE. c) Create procedures that will be used to monitor and evaluate the implementation of the plan to check whether reasonable progress is being made towards implementing EE.

DIVISION/ DESIGNATION	RESPONSIBILITY
	d) EE Forum is the forum for consultation on matters pertaining to employment equity as required by the Act. e) To ensure that legislative compliance is always maintained and that the implementation of EE processes and reporting is properly facilitated and reported upon, thereby contributing to the achievement of EE targets and objectives.
Human Capital Management	a) Monitor, evaluate and ensure the correct implementation of the EE Policy. b) Is responsible for overseeing and implementing all staff related policies, procedures, processes, and practices from entry to exit, and ensure integration with EE legislative requirements. c) Ensure that the EE Policy comply with the Council resolutions, applicable legislation, conditions of service and relevant bargaining council agreements. d) Ensure that there is fairness and consistency in terms of all relevant legislation. e) Provide guidance on the management of the exceptions to this policy. f) Inform Management of all the corrections and amendments to the EE Policy.
Employees	All employees are responsible for complying/ adhering to the approved EE Policy

## 7. LINKS TO OTHER POLICIES AND STRATEGIES

In addition to the legislative frameworks, the Employment Equity Policy is to be read in conjunction with the relevant staffing policies and strategies governing implementation in the workplace (e.g., recruitment, remuneration, promotions, succession planning and retention strategies, etc.).

## 8. POLICY CONTENT

### 8.1 Affirmative Action and Employment Equity

#### 8.1.1 Affirmative Action

8.1.1.1 As a designated employer the MCLM shall, to achieve EE, implement Affirmative Action measures for people from designated groups as defined in section 1 of the EEA as amended.

8.1.1.2 Affirmative Action measures are measures designed to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational levels in the workforce of the institution.

8.1.1.3 Affirmative Action measures include, but not limited to, the following:

8.1.1.3.1 Measures to identify and eliminate employment barriers, including unfair discrimination, which adversely affect people from designated groups.

8.1.1.3.2 Measures designed to further diversity in the workplace based on equal dignity and respect of all people.

- 8.1.1.3.3 Making reasonable accommodation for suitably qualified people from designated groups including persons with disabilities.
- 8.1.1.3.4 Measures to recruit, promote, retain, and develop people from designated groups, including skills development and skills transfer.
- 8.1.1.3.5 Measures that include preferential treatment, numerical goals, and measures other than numerical goals, but exclude quotas or the creation of absolute barriers.
- 8.1.1.4 No provision in this policy should be construed as requiring MCLM to take any decision concerning employment policies and/ or practices that would establish an absolute barrier to the prospective or continued employment or advancement of people who are not from designated groups. This includes, but is not limited to, any decision relating to the termination of employment of any employee of the Municipality for reasons not relating to the conduct or capacity of the employee or the operational requirements of the employer in terms of the provisions of the Labour Relations Act.

## **8.2 Employment Equity**

- 8.2.1.1 MCLM is defined as a “designated employer” in terms of section 1 of the Employment Equity Act as amended, and, as such, the provisions of Chapter 3 of the Employment Equity Act, dealing with affirmative action, are directly applicable to the Municipality.
- 8.2.1.2 MCLM shall take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice.
- 8.2.1.3 Unfair discrimination is prohibited where no person may unfairly discriminate, directly or indirectly, against an employee in any employment policy or practice, on one or more grounds, including 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.
- 8.2.1.4 It will not constitute unfair discrimination to take affirmative action measures consistent with the purposes of the EEA as amended as set out in this policy or to distinguish, exclude or prefer any person based on an inherent requirement of any job.
- 8.2.1.5 Victimisation and harassment of an employee, including racial and sexual harassment of any form, constitutes unfair discrimination.
- 8.2.1.6 Pay disparity based on unjustifiable and arbitrary grounds constitutes unfair discrimination and MCLM shall ensure that the principle of equal pay for work of equal value shall be upheld for all appointments as stipulated in section 2 in the Employment Equity Regulations, 2014, as amended.

## **8.3 Employment Equity Plan and Reporting**

- 8.3.1.1 MCLM shall prepare and implement an employment equity plan which will achieve reasonable progress towards employment equity in the workplace, and such plan shall contain, at the very least, the information listed in section 20(2) of the EEA as amended (which deals with the preparation of the employment equity plan).
- 8.3.1.2 MCLM shall collect information and conduct an analysis in the prescribed form, of its employment policies, practices, procedures, and the working environment in order to identify employment barriers which adversely affect people from designated groups in terms of the

provisions of section 19 of the Employment Equity Act as amended (which deals with the barrier analysis).

- 8.3.1.3 MCLM shall comply with the provisions of section 21 (which deals with the reporting to the Department of Labour), section 23 (which deals with the preparation of successive employment equity plans) and all other provisions of Chapter III of the EEA as amended, dealing with affirmative action measures.

#### **8.4 Recruitment and Selection**

- 8.4.1 Recruitment and Selection is an important mechanism to achieving MCLM's numerical goals and targets and increasing the representation of the designated groups and shall be conducted fairly.
- 8.4.2 During the recruitment and selection process, the EE representatives shall form part of the committee and consistently participate in:
- a) Sharing information and data in relation to EE goals and targets for consideration by the committee
  - b) Advising the committee on the EE Plan demographic profile, goals and targets
  - c) Noting any recruitment process concerns to the committee and/ or Senior Manager responsible for EE.

#### **8.5 Career Advancements**

- 8.5.1 MCLM recognizes upward mobility and lateral transfers as having the potential to impact and accelerate equitable representation of all groups in occupational level within a workplace.
- 8.5.2 The advancement and transfers processes shall be informed by MCLM's policies and procedures, and strategies (e.g., transfer policies, succession planning, career development, leadership pipeline, etc.).

#### **8.6 Employee Learning and Development**

- 8.6.1 MCLM is committed to the development of all its employees and its objective of encouraging learning and development of employees while prioritising designated groups.
- 8.6.2 Staff learning and development processes shall be informed by MCLM's Learning and Development policy, which will be guided by the Municipality's EE Policy and which will grant preference in access to training and development opportunities for designated groups until their representation in all occupational levels has reached the desired targets and long-term goals.

#### **8.7 Reasonable accommodation**

- 8.7.1 MCLM shall ensure reasonable accommodation for job applicants and employees, from designated groups including persons with disabilities, where applicable.

### **9. GOVERNANCE STRUCTURES**

- 9.1.1 MCLM's Employment Equity Forum is established and constituted in terms of the Employment equity Act, 1998, (Act No. 55 of 1998).

9.1.2 The EE Forum is constituted of:

9.1.2.1 Representative trade union members/ representatives nominated by them.

9.1.2.2 Employees or representatives nominated by employees.

9.1.2.3 Representatives who reflect the interests of all levels and categories of the workforce.

9.1.2.4 Representatives from designated and non-designated groups.

9.1.3 EE training for the purposes of capacity building shall be provided to enhance EE knowledge to EE representatives to sharpen the understanding of the concepts, legislation and EE practices towards the achievement of EE goals and targets within the Municipality.

## **10. IMPLEMENTATION OF THE POLICY**

10.1 The execution of the EE Policy shall be based on sound corporate governance principles.

10.2 The implementation of EE Policy shall be effected a day after approval by Council or immediately after signed by the Municipal Manager.

## **11. FINANCIAL IMPLICATIONS**

11.1 The Municipality shall ensure that adequate financial and other relevant resources are made available to ensure the support and realisation of the EE Policy, subject to affordability and financial sustainability.

## **12. MONITORING AND EVALUATION OF THE POLICY**

12.1 Corporate Support Services Department (ODD Sub-division) shall monitor and evaluate the implementation and compliance of the EE Policy.

12.2 No deviation to the EE Policy and procedure requirements is permitted. Any possible breaches of the EE Policy would be monitored by the ODD Sub-division.

## **13. POLICY REVIEW**

The revision of the EE Policy is influenced by the revision of the EE Act, and as a result, this policy shall be reviewed as and when required.

## **14. COMMUNICATION**

The EE Policy shall be communicated to all Municipal employees using the full range of communication methods available to the Municipality.

## **15. COMPLIANCE**

Any contravention to this policy shall be constituted as misconduct.

## **16. PRECEDING POLICIES RESCINDED**

The previous policies in respect of this subject are RESCINED and REPLACED with this new policy.

**17. APPROVAL**

Council	Mogale City Local Municipality
Signature:	
Date Approved:	15 June 2023
Effective Date:	01 July 2023