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1. INTRODUCTION

- 1.1 The **Disability Management Policy** presents the City of Johannesburg's (CoJs) commitment towards implementing the objectives of the Employment Equity Act (EEA) No 55 of 1998 and the Employment Equity Act Code of Good Practice on the Employment of People with Disabilities
- 1.2 The Policy aims to assist the CoJ with guidelines on management of disability at workplaces of the CoJ

2. THE DEFINITION OF TERMS

Term	Definition
Black people	Refers to definition as defined in the EEA
Designated employer	Shall mean the City of Johannesburg (CoJ)
Designated group	Refers to definition as defined in the EEA
Department	Shall mean a Department headed by an Executive Director reporting directly to the City Manager
Directorate	Shall mean a Unit headed by a Director reporting to the Executive Director of a Directorate
Reasonable accommodation of people with disability	Means any modification or adjustment to a job or to the working environment that will enable a person with disability to have access to or participate or to advance in employment
Suitably qualified person	Means someone who has the ability to do the job based on any one, or a combination of that person's formal qualifications, prior learning, relevant experience or who has the capacity to acquire, within a reasonable time, the ability to do the job. Someone who either has all the necessary skills and competencies determined by the CoJ as the minimum requirements for a position, or the person is able to acquire them within a reasonable period
People with disabilities (disabled persons)	means people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment

3. THE INTERPRETATION AND APPLICATION OF DISABILITY MANAGEMENT POLICY

- 3.1 Any dispute arising from the interpretation and application of this policy will be handled and resolved through the delegations and discretion of the Director: Human Resources Shared Services (HRSS)

4. THE RATIONALE AND OBJECTIVES OF DISABILITY MANAGEMENT POLICY

The rationale and purpose of the Policy is to:

- 4.1 provide guidance on the management of matters concerning disability management in the CoJ pertaining to:
 - 4.1.1 recruitment of disabled people
 - 4.1.2 sensitizing managers about "reasonable accommodation" for people with disability
 - 4.1.3 reasonable accommodation relating to provision of supporting mechanisms/resources

- 4.2 manage advancement and integration of people with disability to the operations of the CoJ
- 4.3 eliminate unfair discrimination against people with disabilities at workplaces within the CoJ
- 4.4 facilitate removal of barriers for people with disabilities
- 4.5 promote the CoJ's intention to introduce interventions targeted at the development of people with disabilities
- 4.6 foster diversity within the CoJ and ensure equitable representation of people with disability at every organisational level in all CoJ workplaces, to reflect the economically active populations of the Gauteng Region
- 4.7 eliminate unfair discrimination and harassment among employees
- 4.8 commit the CoJ to accelerated implementation of employment equity national objectives pronounced and articulated by the Commission for Employment Equity (CEE)
- 4.9 commit the CoJ to the achievement of the Skills Development Act, No 97 of 1998 and its support to the broader goals of government to halve unemployment and poverty, and reducing inequality by 2014

5 THE SCOPE OF APPLICATION

- 5.1 The Policy applies to City of Johannesburg Metropolitan Municipality administration and all its employees

6 THE ROLES AND RESPONSIBILITIES (THE ACCOUNTABILITY FRAMEWORK)

- 6.1 The *Mayoral Committee (Mayco)* approves the HR Policies
- 6.2 The *Executive Management Team (EMT)* engages on the HR policies and recommends the approval of the HR policies by Mayco
- 6.3 The *City Manager* is accountable as an Accounting Officer and oversees the development, implementation and maintenance of policies, procedures, processes and system, including those in HR
- 6.4 The *Executive Director: Corporate and Shared Services* is responsible for ensuring the HR Policies comply with the Council resolutions of City of Johannesburg, as well as applicable legislation, and in conjunction with the conditions of service and relevant bargaining council agreement
- 6.5 Other *Executive Director's* are accountable for ensuring strict adherence to prescriptions of HR policies within their Depts, as well contribute to the development, review and evaluation of impact of HR policies
- 6.6 The *Director: Human Resources Shared Services (HRSS)* is responsible for the overall policy implementation, management, monitoring and review, as well as ensuring that the HR Policies comply with the Council resolutions, applicable legislation, conditions of service and relevant bargaining council agreements
- 6.7 The nominated *Deputy Director in HRSS with responsibility of HR policies* is responsible for ensuring that the Policy is reviewed on ongoing-basis
- 6.8 Other *Deputy Directors [Business Process Owners (BPO)] in HRSS* are responsible for researching, recommending the development, maintenance, review and evaluation of their policies dealing with their respective areas and processes in the CoJ, as well as monitoring the implementation of the Policy within the requirements
- 6.9 The *Field HR and HR Transactions* are responsible for ensuring the adherence and compliance to the approved HR policies, as well as providing advise on HR policies

6.10 The *Line Manager* is responsible for implementation of and adherence to the approved HR policies

6.11 The *Organised Labour (Unions)* are responsible for playing an oversight role on management, implementation and compliance/adherence to approved HR policies, as well as contribute to the evaluation of impact of HR policies and their review

6.12 All *Staff* are responsible for complying/adhering to the approved HR Policies

7 THE POLICY AREAS

This section outlines the policy provisions on the disability management in the CoJ.

7.1 THE PRINCIPLES

7.1.1 Employees with disability shall enjoy the same rights and privileges as all other employees in the City

7.1.2 Employees with disability shall be treated with respect and dignity

7.1.3 Reasonable accommodation of people with disability shall be enforced at all times

7.1.4 Cases of unfair discrimination against people with disability shall be handled formally through CoJ's grievance and disciplinary processes and proceedings

7.2 THE GENERAL PROVISIONS ON DISABILITY MANAGEMENT

7.2.1 Having a disability does not release an employee from the obligations to meet the inherent requirements and perform the essential functions of the job. The essential functions are the basic job activities that an employee must be able to perform

7.2.2 CoJ is not required to hire, promote, employ or select persons with disabilities who are unable to do the essential functions of the job

7.2.3 CoJ is required to ensure that employees, job applicants, disabled visitors and members of the public have equal access to buildings, amenities and facilities

7.2.4 CoJ EE Plan sets out the affirmative action measures it intends to take to achieve employment equity in the workplace

7.2.5 Employees with disabilities are one of the designated groups that require special support under the EE Plan

7.2.6 The EE Plan sets out the strategies to be used to remove all barriers that prevent the employment and advancement of employees with disabilities, and CoJ will ensure that this plan becomes a reality in its workplace

7.2.7 CoJ will reasonably accommodate employees with disabilities with the aim of reducing the impact of the impairment of person's capacity to fulfill the essential functions of the job

- 7.2.8 Managers will discuss possibilities for reasonable accommodation with the affected employee, and will not impose a unilateral solution to the problem. Examples of reasonable accommodation includes amongst others:
- 7.2.8.1 acquiring new equipment or support mechanisms/resources or modifying existing equipment
 - 7.2.8.2 modifying the infrastructure or facilities for the job
 - 7.2.8.3 flexible or modified work schedules
 - 7.2.8.4 reassignment to another vacant position
 - 7.2.8.5 adjusting or modifying skills and competency tests, training materials, policies or practices
 - 7.2.8.6 providing readers, interpreters, drivers or other forms of support
 - 7.2.8.7 job rotation
- 7.2.9 Disclosure of disability should be done in writing and submitted to HRSS

7.3 THE CATEGORIES OF PEOPLE WITH DISABILITY

7.3.1 THE DEFINITION OF PEOPLE WITH DISABILITY

- 7.3.1.1 Section 1 of the EEA defines *people with disabilities* as “people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment”
- 7.3.1.2 The Code of Good Practice on the Employment of People with Disabilities interprets this definition by explaining in each of the qualifying criteria underlined above in order to assist in making decisions about who qualifies under the Act (Code, Paragraph 5)

7.3.2 THE THREE (3) BASIC CRITERIA DEFINING DISABILITY

The three (3) basic criteria in the EEA, as explained in the Code, must all be met if a person is to be covered under the EEA and the EEA provides the necessary guidelines to assist in the application of these concepts in practice.

7.3.2.1 First, a person must have an impairment

- a. An impairment may either be physical or mental or a combination of both
- b. A physical impairment means "a partial or total loss of a bodily function or part of the body. It includes sensory impairments such as being deaf, hearing impaired or visually impaired" (Code, paragraph 5)
- c. A mental impairment is a clinically recognised condition or illness that affects a person's thought processes, judgment or emotions. This includes conditions such as intellectual, emotional and learning disabilities

7.3.2.2 Secondly, *the impairment must also be long-term or recurring*

- a. *Long-term* means the impairment has lasted or is likely to persist at least twelve (12) months
- b. *Recurring* means the impairment in one that is likely to happen again and to be substantially limiting. The condition can go away for a period of time and return again but it is never cured. It includes a constant chronic condition, even if its effects on a person fluctuate, such as some forms of multiple sclerosis
- c. Progressive conditions are those that are likely to develop or change or recur
- d. People living with progressive conditions or illnesses are considered as people with disabilities once the impairment starts to be substantially limiting
- e. *Progressive or recurring conditions* which have no overt symptoms or which do not substantially limit a person with no disabilities. *For example*, a person with cancer, tuberculosis or HIV would not be covered under the EEA until the symptoms are substantially limiting the person's ability to perform their job

7.3.2.3 Thirdly, *the impairment must be substantially limiting*

- a. Impairment is *substantially limiting* if its nature, duration or effects substantially limit a person's ability to perform essential functions of the job for which she/he is being considered
- b. If the effects of the impairment are not substantially limiting, even if they are physical and/or mental, are long-term or recurring, then the person is not covered under the EEA
- c. *Qualified experts* may be used to assist the employer to determine whether a particular impairment is substantially limiting or an applicant or employee may be able to provide information sufficient to document this
- d. Two (2) categories of impairments *excluded* are the following:
 - i. The *first category* are impairments, which are so easily controlled, corrected or lessened, that they have no limiting effects. For example, a person who wears spectacles or contact lenses does not have a disability unless even with spectacles or contact lenses the person's vision is substantially impaired. An assessment to determine whether the effects of impairment are substantially limiting, must consider if medical treatment or other devices would control or correct the impairment so that its adverse effects are prevented or removed.
 - ii. The *second category* refers to what are called public policy exclusions. This means that for reasons of public policy certain conditions, practices or impairments may not be considered disabilities. These include but are not limited to:
 - sexual behaviour disorders that are against public policy
 - self-imposed body adornments such as tattoos and body piercing
 - compulsive gambling, tendency to steal or light fires
 - disorders that affect a person's mental or physical state if they are caused by current use of illegal drugs or
 - alcohol, unless the affected person is participating in a recognised programme of treatment
 - normal deviations in height, weight and strength; and conventional physical and mental characteristics and
 - common personality traits

7.4 THE DISABILITY MANAGEMENT IN RECRUITMENT, SELECTION AND APPOINTMENT

- 7.4.1 The *Talent Acquisition Policy* will reflect the key issues relating to recruitment, selection and appointment processes outlined in the EEA, approved EE Plan and Policy, Codes of Good Practice on Employees With Disability, and any other regulations emanating from the EEA
- 7.4.2 CoJ shall take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in the talent acquisition practices and the *Talent Acquisition Policy* or practices
- 7.4.3 CoJ will not discriminate either directly or indirectly, against persons with disabilities:
 - 7.4.3.1 in the recruitment and selection process
 - 7.4.3.2 in the terms on which employment is offered
 - 7.4.3.3 by refusing to offer, or deliberately not offering, employment
 - 7.4.3.4 in the opportunities which are offered to an employee for promotion, transfer, training or the receipt of any other benefit
 - 7.4.3.5 by dismissing the person with disability without following the proper procedures, or subjecting him/her to any other disadvantage in the workplace
 - 7.4.3.6 by medical testing of some employees and not others without justification
 - 7.4.3.7 by refusing to reasonably accommodate the person with a disability in the workplace
- 7.4.4 Preference in the recruitment and selection process will prioritise *suitably qualified candidates* who are members of *designated groups* as defined in Section 1 of the EEA (i.e. black people, women, and people with disabilities)
- 7.4.5 CoJ will only accept psychometric assessments, physical testing and medical examination if the instrument(s) used have been scientifically shown to be valid, fair, reliable applicable and has been standardised to the South African situation
- 7.4.6 Any tests used should prove to be applied fairly to all candidates and not biased against any employee or group. The requirements of section 8 of EEA shall be adhered to

7.5 THE DISABILITY MANAGEMENT IN TRAINING AND DEVELOPMENT

- 7.5.1 The *Training and Development Policy* will reflect the key issues relating to staff development processes
- 7.5.2 Learning and development will assist with the achievement of disability management targets through awareness raising to ensure that CoJ staff know how to respond to issues on people with disability
- 7.5.3 Training and development should prioritise the advancement of employees with disability in order to prepare them to occupy influential positions as and when such vacancies arise
- 7.5.4 When person with disability has been appointed as a result of their prior learning and or experience without the necessary qualifications, it is expected that the incumbent would be provided with the necessary developmental processes/opportunities in order to acquire the qualification required
- 7.5.5 If a person with disability is appointed as a result of their formal qualifications and lack of experience, their development must be supported through the necessary developmental processes/opportunities to be enabled to perform their duties

7.6 MEDICAL BOARDING AS A RESULT OF DISABILITY AT WORK

7.6.1 Occupational Health and Safety (OHAS) Department will conduct medical examinations to determine the disability status for medical boarding purposes

7.6.2 Refer to *Occupational Health and Safety* policies for more details

7.7 THE IMPLEMENTATION TRACKING AND MONITORING & EVALUATION PROCESS ON DISABILITY MANAGEMENT

7.7.1 The EE Section in HRSS is responsible for monitoring the implementation of disability management in the CoJ

7.7.2 The Facilities Management Unit is responsible for assisting the Departments with effecting the necessary infrastructural changes required for reasonable accommodation purposes

7.8 CONFIDENTIALITY

7.8.1 CoJ shall protect the confidentiality of information that has been disclosed

7.8.2 CoJ shall not release information on persons disability without their consent

8 THE APPROVAL

8.1 Policy changes are to be approved by the Mayoral Committee

9 THE AMENDMENTS

9.1 The Policy may be reviewed and amended at least every two (2) years or more frequently, as and required

9.2 Maintenance and implementation of the policy is the responsibility of the Director: Human Resources Shared Services (HRSS)

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