



DISABILITY POLICY

Date Approved:	15/12/2017	Council Resolution (DC No):	DC C.5
Date Revived:	25/08/2020 (E.5)		

Contents

1. Introduction	Error! Bookmark not defined.
2. Legal Framework	5
3. Definitions	6
4. Scope of this Policy	6
5. Policy	7-9
6. Processes	9
7. Implementation and Policy Review	10
8. Acknowledgement & Approval	10

1. Introduction

Since the adoption of the new Constitution of South Africa, the rights of people with disabilities in particular have been enshrined and with the publication of the White Paper on an Integrated National Disability Strategy (INDS) in 1998, the process of addressing the inequalities in society faced by people with disabilities has begun. All employers should recognise the importance of the well-being of their employees and their right of access to the workplace with reasonable accommodation for different disabilities.

In the development of a policy on the management of disability in the workplace, the Code of Good Practice on key aspects of Disability in the workplace and the Technical Assistance Guidelines on the Employment of People with Disabilities are very important documents, which should form an integral part of the policy. The Code of Good Practice in terms of Section 54(1) (a) of the Employment Equity Act, 1998 (as amended) is based on the Constitutional principle that no one may unfairly discriminate against a person on the grounds of disability. Various national and provincial policies require from each local authority to comply within the policies set out by National Government regarding persons with disabilities

The **AIM** of the policy is to:

- i. guide and inform the mainstreaming of disability through developing and implementing departmental policies, strategies and integrated service delivery programs,
- ii. facilitate the provision of integrated services to people with disabilities and to
- iii. Provide guidance to Garden Route DM in terms of addressing social barriers that exclude people with disabilities, which impede full and equitable integration and inclusion into mainstream society.

The **OBJECTIVES** of the Policy is to:

- i. integrate and mainstream disability across social development practices and into existing departmental policies, strategies and programmes that are aligned to departmental mandates
- ii. facilitate transformation shifts within the department and society as a whole regarding disability issues
- iii. define the role of social development in service provision to people with disabilities

- iv. facilitate development and implementation of an integrated and comprehensive social security system
- v. serve as overarching policy framework on disability within the department

THE CODE OF GOOD PRACTICE DEALS WITH THE FOLLOWING TOPICS:

- Reasonable Accommodation for People with Disabilities
- Recruitment and Employment
 - Employment Equity Plans
 - Inherent job requirements
 - Recruitment/Advertising
 - Selection
 - Interviews
 - Terms and conditions of employment
 - Conditional job offers
 - Medical and Psychometric Testing
 - Medical testing
 - Testing after illness or injury
 - Health screening and safety
 - Pre-benefit medical examinations
- Placement
- Training and Career Advancement
- Retaining People with Disabilities
- Termination of Employment

Vision

To transform Garden Route District Municipality through the mainstreaming of disability issues in terms of disability awareness, accessibility and skills development of persons with disabilities to be the leading disabled-friendly town in the region.

Mission

Integrate disability issues in all development strategies, planning and programmes of all Departments to ensure mainstreaming of disability issues:

- i. Promote equal opportunities and equity for persons with all types of disabilities in the workplace;
- ii. Promote reasonable accessibility/accommodation for disabled employees in the workplace;

- iii. Eliminate discrimination against persons with disabilities;
- iv. Sensitise all employees and increase awareness of disabilities;
- v. Ensure the development of an integrated and co-ordinated management as being part of the planning, implementation and monitoring of all Directorates in the municipality;

Promote capacity-building and public education on disability issues.

2. Legal Framework

- White Paper on an Integrated National Disability Strategy (INDS), 1998
- Disability Framework for Local Government: 2009 -2014
- Technical Assistance Guidelines on the Employment of People with Disabilities
- Code of Good Practice on key aspects of Disability in the workplace
- Code of Good Practice in terms of Section 54(1) of the Employment Equity Act, 1998
- Access to Information Act, 2000 (Act No 2 of 2000)
- Basic Conditions of Employment Act Amended, 2002 (Act No.10 of 2002)
- Child Justice Bill 2003
- Criminal Procedures Act, 1977 (Act No. 51 of 1977)
- Employment Equity Act No 55 of 1998
- International Classification of Functioning, Disability and Health
- National Health Act, 2003 (Act No. 61 of 2003)
- Labour Relations Act, (Act No.66 of 1995)
- National Development Agency Act, 1998 (Act No. 108 of 1998)
- Non Profit Organisations Act, 1997 (Act No. 71 of 1997)
- Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)
- Prevention and Treatment of Drug Dependency Act, 1992 (Act 20 of 1992 as amended)
- Public Finance Management Act,1999 (Act No. 1 of 1999)
- S.A. Schools Act (Act No. 84 of 1996)
- Skills Development Amendment Act (Act No 31 of 2003)
- The S.A Constitution (Act 108 of 1996)

National and International Disability Instruments:

- African Charter on the Rights of the Child
- South African Disability Human Rights Charter
- Plan of Action on the African Decade for Disabled People
- Standard Rules on the Equalisation of Opportunities for People with Disabilities

- United Nations Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities (draft)
- United Nations Convention on the Rights of the Child

3. Definitions

Person with a Disability: A disability is a condition or function judged to result in significant impairment relative to the usual standard of an individual. The term is used to refer to individual functioning including physical impairment, intellectual impairment, mental illness and various chronic diseases. There may be effects on organs or body parts and there may be effects on a person's participation in areas of life.

Three dimensions of disability are recognised:

- i. Body structure and function and the impairment thereof
- ii. Activity restrictions, and
- iii. Participation restrictions.

A person with a disability is defined as an individual whose prospects of securing and retaining suitable employment are substantially reduced as a result of physical or mental impairment.

People are considered to be disabled once they have met all the criteria in the following definition:

- i. having a physical or mental impairment
- ii. which is long-term or recurring; and
- iii. Which substantially limits their prospects of entry into, or advancement in employment?

4. Scope of this Policy

- To redress the disparities of the past
- To achieve equity in the workplace
- To comply with the requirements of the Employment Equity Act No. 55 of 1998.
- To implement non-discrimination and affirmative action measures in respect of persons with disabilities in the workplace.

5. Policy

Information Programme: Disability in the Workplace and in the Community

Education and Information:

All Municipal employees and Councillors must be informed and educated through on-going disability awareness and sensitisation programmes.

5.1.1. The objectives of the education and information programmes are to:

- i. Impart a basic knowledge about disability and related issues, e.g. reasonable accommodation;
- ii. Eliminate discrimination against persons with disabilities through dispelling any ignorance about different types of disabilities and the basic needs to accommodate persons with disabilities;
- iii. Protection of persons with disabilities against discrimination through applicable legislation.

5.1.2. Aims of above:

- i. Know what disability is;
- ii. Understand the different types of disability;
- iii. Understand concept of reasonable accommodation;
- iv. Knowledge of the legislation in order to prevent discrimination against person with disabilities;
- v. Understand both structural and emotional access;
- vi. Understand legal and ethical issues (confidentiality and disclosure);
- vii. Be aware of equipment, changes and other related needs of persons with disabilities

5.1.3. Employee Benefit Scheme

The Garden Route District Municipality will endeavour to ensure that employees with disabilities will not be discriminated against with regard to employee benefits.

5.1.4. Medical Aid Schemes:

The Garden Route District Municipality will try to impress upon medical aid funds to which employees contribute that a non-discriminatory attitude towards persons with disabilities must be maintained and to treat such persons in a similar manner as non-disabled persons.

Normal benefits should be available to all who qualify as “disabled.”

5.1.5. Pension/Retirement Funds

The Garden Route District Municipality will try to impress upon funds to which employees contribute that they must maintain a non-discriminatory attitude towards persons with special needs and to treat such persons in a similar manner as non-disabled persons.

No person should be denied access to Pension or Retirement funds on the grounds of disability alone provided that they fulfil initial criteria for admission.

5.2. Managing persons with disabilities

Should an employee become disabled while in the employ of Council, a work assessment and recommendation for reasonable accommodation in their current employment must be done. A re-assessment may be done for skills, competency and suggestions in order to reasonably accommodate the employee in another Department and/or Section for as long as is practicably possible.

Employees with disabilities will be governed without distinction or discrimination to existing sick leave allocations (sick leave policy). Persons with special needs should be given appropriate training, support and development opportunities in various skills in order to be able to reach his/her full potential. This is especially important in view of the lack of training opportunities for persons with disabilities have had in the past. It is also important that training be aimed not only at entry level posts but also for more senior positions for persons with disabilities have traditionally mainly been employed in junior posts.

5.3. Emergency and Disaster Plan

SHE Management System. Corporate Standard – Emergency Preparedness and Evacuation Plan

The above-mentioned plan provides for an emergency plan to be implemented for employees working on the different floors of the main building and in different buildings of the Municipality. Evacuation of persons with special needs should not be a prevention or exclusion to access the workplace on any of the municipal buildings with more than one floor, nor

would that be applicable to prevent employment of persons with special needs in any other municipal building.

Appropriate equipment such as an evacuation chairs for persons with disabilities to evacuate the building in the event of an emergency should be made available.

6. Process

Implementation:

- 8.1. The Council's Human Resources Division is responsible for the monitoring of the implementation of a Policy for persons with disabilities;
- 8.2. Institutional Management is responsible for the implementation of this policy in terms of the necessary processes, systems and procedures;
- 8.3. Line managers are responsible for adhering to the policy as well as the processes and procedures.
- 8.4. The Human Resources Division is responsible for the administration processes and the provision of management information.
- 8.5. Employees with disabilities have the right not to be dismissed unfairly on the basis of their disability.
- 8.6. Should an employee become disabled while in the service of Council, every effort should be made to accommodate that employee either in an alternative position or at an alternative work station. This is especially important for employees who are injured on duty. In terms of Schedule 8 of the Labour Relations Act 66 of 1995, every effort should be made to reintegrate a disabled person into the workplace.
- 8.7. Should an employee have been ill or injured and it appears that the employee is not able to perform the inherent job requirements, the employee may then be required to agree to a FUNCTIONAL DETERMINATION OF DISABILITY.
- 8.8. The above shall be to assess whether the employee can safely perform the job requirements and identify possible reasonable accommodation for the employee.
- 8.9. If all efforts to provide reasonable accommodation for the employee are unsuccessful, the incapacity route must be followed. The Garden

Route District Municipality must ensure that as far as possible, the employee's right to confidentiality is maintained during an incapacity proceeding

7. Implementation and Policy Review

On the minutes of the Council meeting that took place on 25 August 2020 (E.2) this Policy was approved, and the policy will be reviewed annually or as and when regulations changes.

8. Acknowledgement & Approval

This document was signed on the _____ of _____ 20____.

Municipal Manager

Union Representative (SAMWU)

Union Representative (IMATU)