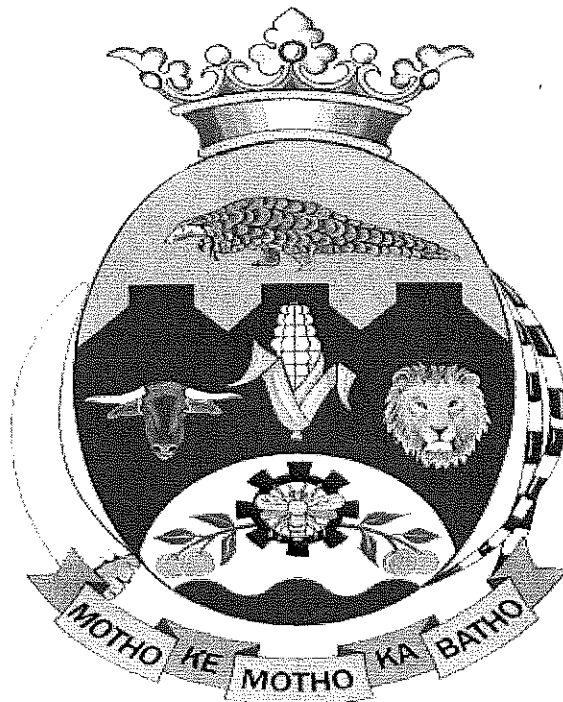


LEPELLE-NKUMPI LOCAL MUNICIPALITY



REASONABLE ACCOMODATION FOR PEOPLE WITH DISABILITIES POLICY

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REASONABLE ACCOMODATION FOR PEOPLE WITH DISABILITIES POLICY

1. PREAMBLE

- 1.1 Since disability is a natural part of the human experience and in no diminishes the rights of individuals to belong and contribute to the labour market, Lepelle – Nkumpi Municipality realized the need thereof to make measures and resources available for people with disabilities in the workplace.
- 1.2 When opportunities and reasonable accommodation is provided, people with disabilities can contribute valuable skills and abilities to every workplace, and contribute to the economy of our society.

2. DEFINITIONS

- 2.1 **"Discrimination on the basis of disability"** means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights, and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.
- 2.2 **"Persons with disabilities"** include those who have long -term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. The scope of protection for [people] persons with disabilities in employment focuses on the effect of a disability on the person in relation to the working environment, and not on the diagnosis or the impairment.
- 2.3 **"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.
- 2.4 **"Mental' impairment"** means a clinically recognized condition or illness that affects a person's thought processes, judgment or emotions.
- 2.5 **"Long –term impairment"** means the impairment has lasted or is likely to persist for at least twelve months.

2.6 **“Recurring impairment”** means an impairment that is likely to happen again and to be substantially limiting and it includes a constant chronic condition, even if its effects on a person fluctuate.

2.7 **“Progressive conditions”** means those impairments that are likely to develop or change or recur. People living with progressive conditions or illnesses are considered as people with disabilities once the impairment starts to be substantially limiting.

2.8 **“Substantially limiting impairment”** means impairment if in its nature, duration or effects it substantially limits the person's ability to perform the essential functions of the job for which they are being considered.

2.9 **“Act”** means the Employment Equity Act, No. 55, 1998 as amended.

3. LEGISLATIVE FRAMEWORK

3.1 The mandate for the development and implementation of this policy arises from the following legislations:

3.1.1 Constitution

3.1.2 Promotion of Equality and Prevention of Unfair Discrimination Act, 2000

3.1.3 Employment Equity Act, No. 55, 1998

3.1.4 Code of Good Practice on the Employment of People with Disabilities

4. OBJECTIVES

4.1 To prevent discrimination against people with disabilities in the municipality

4.2 To take appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise.

4.3 To develop programmes that promote and protect the right of people with disabilities to equality, citizenship, life, employment, education, health, and justice as well as their freedom of expression and association.

4.4 To ensure that people with disabilities have equal access to the municipal buildings

4.5 To provide measures to promote certainty and reduce disputes to ensure that people with disabilities can enjoy and exercise their rights in the workplace

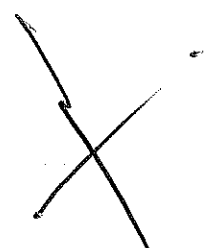
- 4.6 To give guidance on promoting equal opportunities and fair treatment for people with disabilities as required by the Act.
- 4.7 To help create awareness of the contributions people with disabilities can make and to encourage managers to fully use the skills of such people.

5. SCOPE OF APPLICATION

- 5.1 This policy will apply to all employees and job applicants of Lepelle-Nkumpi Municipality who meets the definition and criteria of people with disabilities.

6. REASONABLE ACCOMODATION FOR PEOPLE WITH DISABILITIES

- 6.1 The municipality shall reasonably accommodate the needs of people with disabilities. The aim of the accommodation is to reduce the impact of the impairment of the person's capacity to fulfil the essential functions of a job.
- 6.2 The municipality shall adopt the most cost -effective means that is consistent with effectively removing the barriers to perform the job, and to enjoy equal access to the benefits and opportunities of employment.
- 6.3 Reasonable accommodation requirement applies to applicants and employees with disabilities who are suitably qualified for the job and may be required in
 - a) the recruitment and selection processes;
 - b) the working environment;
 - c) the way work is usually done, evaluated and rewarded; and
 - d) the benefits and privileges of employment.
- 6.4 The obligation to make reasonable accommodation may arise when an applicant or employee voluntarily discloses a disability related accommodation need or when such a need is reasonably self -evident to the employer.
- 6.5 The Municipality shall accommodate employees when work or the work environment changes or impairment varies which affects the employee's ability to perform the essential functions of the job.



- 6.6 The municipality shall consult the employee and, where reasonable and practical, technical experts to establish appropriate mechanisms to accommodate the employee.
- 6.6 The particular accommodation will depend on the individual, the degree and nature of impairment and its effect on the person, as well as on the job and the working environment.
- 6.7 Reasonable accommodation may be temporary or permanent, depending on the nature and extent of the disability.
- 6.8 Reasonable accommodation includes but is not limited to –
- a) adapting existing facilities to make them accessible;
 - b) adapting existing equipment or acquiring new equipment including computer hardware and software;
 - c) re-organizing workstations;
 - d) changing training and assessment materials and systems;
 - e) restructuring jobs so that non -essential functions are reassigned;
 - f) adjusting working conditions, including working time and leave; and
 - g) providing specialized supervision, training and support in the workplace.
- 6.9 The Municipality may evaluate work performance against the same standards as other employees but the nature of the disability may require an employer to adapt the way performance is measured.
- 6.10 The municipality need not accommodate a qualified applicant or an employee with a disability if this would impose an unjustifiable hardship on the business of the employer.
- 6.10 'Unjustifiable hardship' is action that requires significant or considerable difficulty or expense. This involves considering, amongst other things, the effectiveness of the accommodation and the extent to which it would seriously disrupt the operation of the business.
- 6.11 An accommodation that imposes an unjustifiable hardship for one employer at a specific time may not be so for another or for the same employer at a different time.

7. RECRUITMENT AND SELECTION

7.1 Recruitment

7.1.1 When employers recruit they should –

- a) identify the inherent requirements of the vacant position;
- b) describe clearly the necessary skills and capabilities required for the job;
- c) set reasonable criteria for selection, preferably in writing, for job applicants for such vacant positions.

7.1.2 The 'inherent requirements of the job' are those requirements the employer stipulates as necessary for a person to be appointed to the job, and are necessary in order to enable an employee to perform the essential functions of the job.

7.1.3 Application forms should focus on identifying an applicant's ability to perform the inherent requirements of the job.

7.1.4 Advertisements should be accessible to persons with disabilities and, where reasonable and practical, circulated to organizations that represent the interests of [people] persons with disabilities.

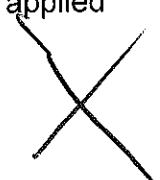
7.1.4 Advertisements or notices should include sufficient detail about the inherent requirements of the job so that potential applicants with disabilities can make an informed decision.

7.1.5 The municipality may not include criteria that are not necessary to perform the essential functions of the job because selection based on non - essential functions may unfairly exclude people with disabilities

7.1.6 On request, and if reasonable in the circumstances notices and advertisements should be provided in a format appropriate to persons with disabilities, such as large print, Braille, or audiotape.

7.2 Selection

7.2.1 Subject to reasonable accommodation, employers should apply the same criteria to test the ability of [people] persons with disabilities as are applied to other applicants.



7.2.2 The purpose of the selection process is to assess whether or not an applicant is suitably qualified. This may require a two - stage process if an applicant has a disability:

- a) Determining whether an applicant is suitably qualified;
- b) Determining whether a 'suitably qualified applicant' needs any accommodation to be able to perform the essential functions of the job.

7.2.3 When assessing if an applicant is suitably qualified, an employer may not request information about actual or perceived disability from a previous employer or third party unless with the written consent of the applicant.

7.2.4 Employers should monitor their criteria for selection. If these criteria tend to exclude people with disabilities, they should be reviewed to ensure that they do not unfairly discriminate against persons with disabilities.

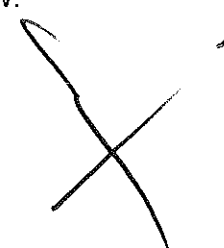
7.3 Interviews

7.3.1 Selection interviews should be objective and unbiased. Interviewers should avoid assumptions about people with disabilities.

7.3.2 If an applicant has disclosed a disability or has a self -evident disability, the employer must focus on the applicant's qualifications for the work rather than any actual or presumed disability but may enquire and assess if the applicant would, but for the disability, be suitably qualified.

7.3.3 Interviewers should ask applicants referred to in 7.3.2 above, to indicate how they would perform essential functions and if accommodation is required.

7.3.4 If the municipality knows in advance that an applicant has a disability, or if the applicant has a self -evident disability, the employer should if necessary, make reasonable accommodation during the interview.



7.4 Conditional Job Offers

- 7.4.1 If an applicant with a disability is suitably qualified, an employer may make a job offer conditional on medical or functional testing to determine an applicant's actual or potential ability to perform the essential functions of a specific job.
- 7.4.2 The testing must comply with the statutory requirements and should determine if the applicant is able to perform the essential functions of the job, with or without reasonable accommodation.
- 7.4.3 The municipality may test applicants with disabilities for a specific job and not require all other applicants to undergo testing.
- 7.4.4 A conditional job offer may only be made to one person at a time, not to all applicants with disabilities that may have applied for the job.
- 7.4.5 The municipality may withdraw the job offer if the testing shows that –
- a) Accommodation requirements would create unjustifiable hardship; or
 - b) There is an objective justification that relates to the inherent requirements of the job; or
 - c) There is an objective justification that relates to health and safety.

7.5 Terms and Conditions of Employment

- 7.5.1 The municipality may not –
- a) employ people with disabilities or,
 - b) retain employees who become disabled, on less favourable terms and conditions than employees doing the same work, for reasons connected with the disability.
- 7.5.2 No person may harass an employee on the ground of disability. Such harassment may include teasing, ridicule and offensive remarks. Any alleged harassment should be handled in terms of the guidelines contained in the Code of Good Practice on the Integration of Employment Equity into Human Resource Policies and Practices and the Code of Good Practice on the Handling of Sexual Harassment Cases published in terms of the Labour Relations Act, 1995

8. MEDICAL AND PSYCHOLOGICAL TESTING AND OTHER SIMILAR ASSESSMENTS

8.1 Medical Testing

- 8.1.1 Tests must comply with sections 7 and 8 of the Employment Equity Act, No. 55 1998.' They must be relevant and appropriate to the kind of work for which the applicant or employee is being tested.
- 8.1.2 The municipality should establish that tests do not unfairly exclude and are not biased in how or when they are applied, assessed or interpreted.
- 8.1.3 Tests to establish the health of an applicant or employee should be distinguished from tests that assess the ability to perform essential job functions or duties.
- 8.1.4 Testing to determine the health status of an employee should therefore only be carried out after an employer has established that the person is in fact competent to perform the essential job functions or duties and after a job offer has been made.
- 8.1.5 The same applies to medical testing for admission to membership of an employee benefit scheme.
- 8.1.6 When the municipality requires a person to undergo any medical, psychological testing and other similar assessments it shall bear the costs of the test.

8.2 Testing after Illness or Injury

- 8.2.1 If an employee has been ill or injured and it appears that the employee is not able to perform the job, the municipality may require the employee to agree to a functional determination of disability.
- 8.2.2 Such medical or other appropriate tests shall be used to –
 - a) determine if the employee can safely perform the job or
 - b) identify reasonable accommodation required for the employee.

8.3 Health Screening and Safety

- 8.3.1 The municipality shall provide and maintain a safe and healthy working environment.

8.3.2 The municipality shall not employ a person if it can demonstrate that a person with a disability would represent an actual risk to him or her or other people, which could not be eliminated or reduced by applicable reasonable accommodation.

8.3.3 The municipality may withdraw a conditional job offer, or need not retain an employee with a disability in the same position, if an objective assessment shows that the work would expose the employee or others to substantial health risk. This would only apply where there is no reasonable accommodation to mitigate the risk.

8.4 Pre -benefit Medical Examinations

8.4.1 Employees may be required to submit to medical examination or tests before becoming members of employee benefit schemes that are offered within the employment relationship.

8.4.2 The purpose of these examinations is to assess a person's suitability for membership of a benefit scheme and is not relevant to a person's capability to perform the inherent requirements of the job.

8.4.2 Therefore an employer may not refuse to recruit, train, promote or otherwise prejudice any person only because that person has been refused membership of a benefit scheme.

9. PLACEMENT

9.1 Placement involves the orientation and initial training of a new employee.

9.2 Orientation and initial training should be accessible, responsive to and able to reasonably accommodate the needs of employees who have disabilities.

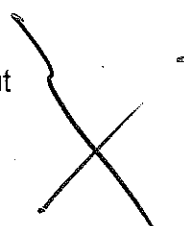
9.3 Subject to reasonable accommodation, new employees with disabilities and other employees who do not have disabilities must be treated equally.

9.4 An employer must make an effort to include disability sensitization in the orientation/induction and other relevant training programmes of their organisations.

10 TRAINING AND CAREER ADVANCEMENT

10.1 Employees with disabilities should be consulted in order to ensure input specific to their career advancement.

11 REASONABLE ACCOMODATION FOR PEOPLE WITH DISABILITIES POLICY



10.2 Facilities and materials for training, work organisations and recreation should be accessible to employees with disabilities.

10.3 Systems and practices to evaluate work performance should clearly identify and fairly measure and reward performance of the essential functions of the job. Work that falls outside the essential functions of the job should not be evaluated.

11 RETAINING PEOPLE WITH DISABILITIES

11.1 Employees who become disabled during employment should, where reasonable be re-integrated into work. Employers should seek to minimize the impact of the disability on employees.

11.2 If an employee becomes disabled, the employer should consult the employee to assess if the disability can be reasonably accommodated.

11.3 If an employee becomes disabled, the employer should maintain contact with the employee and where reasonable encourage early return to work. This may require vocational rehabilitation, transitional work programmes and where appropriate, temporary or permanent flexible working time.

11.4 If an employee is frequently absent from work for reasons of illness or injury, the municipality should consult the employee to assess if the reason for absence is a disability that requires reasonable accommodation.

11.5 If reasonable, municipality should explore the possibility of offering alternative work, reduced work or flexible work placement, so that employees are not compelled or encouraged to terminate their employment.

12 TERMINATION OF EMPLOYMENT

12.1 If the municipality is unable to retain the employee in employment in terms of paragraph 11 above, then the employer may terminate the employment relationship.

12.2 When employees who have disabilities are dismissed for operational requirements, the employer should ensure that any selection criteria used do not either directly or indirectly unfairly discriminate against people with disabilities.

13 WORKERS' COMPENSATION

13.1 The municipality shall assist employees whose disability arose from a work related illness or accident, to receive the relevant statutory compensation, including compensation from the Compensation Fund and the Unemployment Insurance Fund.

14 CONFIDENTIALITY AND DISCLOSURE OF DISABILITY

14.1 Confidentiality

14.1.2 Subject to sections 7 and 18 of the Act", municipality, including health and medical services personnel, may only gather private information relating to employees if it is necessary to achieve a legitimate purpose, with the written consent of the person.

14.1.3 Municipality shall protect the confidentiality of the information that has been disclosed and must take care to keep records of private information relating to the disability of applicants and employees confidential and must be kept separate from general personnel records.

14.1.4 When the municipality no longer requires this information, it shall be destroyed.

14.1.5 The municipality shall not disclose any information relating to a person's disability without the written consent of the employee concerned unless legally required.

14.2 Disclosure

14.3 Persons with disabilities are entitled to keep their disability status confidential. But if the municipality is not aware of the disability or the need to be accommodated, the municipality will not be obliged to provide it. This does not absolve the municipality from their responsibility not to discriminate unfairly, directly or indirectly against job applicants.

14.4 A person with a disability may disclose their disability at any time, even if there is no immediate need for reasonable accommodation.

14.5 If the disability is not self-evident the employer may require the employee to disclose sufficient information to confirm the disability or the accommodation needs.

14.6 If on reasonable grounds the employer does not believe that the employee is disabled, or that the employee requires accommodation, the employer is

entitled to request the employee to be tested to determine the employee's ability or disability, at the expense of the municipality

- 14.7 As information about disability may be technical, employers should ensure that a competent person interprets the information.
- 14.8 If an employer requires further information this must be relevant to a specific job and its essential functions.
- 14.8 The municipality may not reveal the fact of an employee's disability, unless this is required for the health or safety of the person with the disability or other persons.
- 14.9 The municipality may, after consulting the person with the disability, advise relevant staff that the employee requires accommodation.

15. EMPLOYMENT EQUITY PLANNING IN RESPECT OF PEOPLE WITH DISABILITIES

- 15.1 The Code of Good Practice for the Preparation, Implementation and Monitoring of Employment Equity Plans provides guidelines to employers and employees. This Code spells out additional measures to ensure that people with disabilities who are suitably qualified for a job can enjoy equal opportunities and are equitably represented in the workforce.
- 15.2 When municipality is consulting in terms of section 16 of the Employment Equity Act, 1998 it shall use the opportunity to heighten the awareness of their employees of the value and importance of recruiting and retaining the employees who have disabilities.
- 15.3 When the municipalities facilitates the establishment of a consultative forum in terms of section 16(1) (a) and (b) of the Act, the employer should take specific steps to promote the representation of employees with different disabilities in the forum.
- 15.4 If people with disabilities are under -represented in all occupational levels and categories in the workplace, the municipality can seek guidance from organisations that represent people with disabilities or relevant experts, for example in vocational rehabilitation and occupational therapy.
- 15.5 When municipality is compiling its workplace profile in terms of Section 19 of the Act, employees with disabilities, including people with non -visible disabilities, may choose to either:
 - a) not disclose their disability status; or
 - b) disclose their disability openly to their employer; or

c) disclose their disability in a confidential way which assures confidentiality of their identity and their impairment and any disability related accommodation that may be requested and /or required.

15.6 The workplace profile should include any employees who are not in active employment; for example employees who are receiving total or partial income replacement benefits while recovering from illness or disability.

15.7 When municipality is setting targets, it shall aim to recruit and promote and retain people with disabilities at all occupational categories and levels, as people with disabilities are often employed in low status work and tend to be promoted less often than employees without disabilities.

15.8 If employees with disabilities are concentrated in particular occupational categories and levels, the municipality shall consider if its criteria for selection or performance standards could be adapted to facilitate employees with disabilities being employed in different categories and levels.

15.9 The employer shall regularly evaluate the relationship between employees and the working environment, and where necessary provide appropriate programmes to prevent injury, illness and disability and promote health and safety at work.

15. MONITORING AND EVALUATION OF THE POLICY

All reasonable efforts will be made to meet the requirements of the policy.

16. REVIEW AND AMMENDMENT OF THE POLICY

16.1 This policy may be reviewed and amended on an annual basis or each time any Act or condition of service or other agreements deem it necessary.

Document Name: REASONABLE ACCOMODATION FOR PEOPLE WITH DISABILITIES POLICY

Reviewed on 2017-05-30

Recommended by:

S.O MASHIANE (MUNICIPAL MANAGER) Date: 2017-05-30

S.O MASHIANE (MUNICIPAL MANAGER)

Approved by: AC

15 REASONABLE ACCOMODATION FOR PEOPLE WITH DISABILITIES POLICY

B. Ntsoane

Date: 30.05.2017

B. NTSOANE(SPEAKER)

RESOLUTION NUMBER: 7.2.4.05/2016/2017

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