

DRAFT POLICY ON RACISM AND RACIAL HARASSMENT FOR CEDERBERG MUNICIPALITY

PREAMBLE

The Cederberg Municipality recognises the divisive impact of our colonial and apartheid past on the ethos of our society, service delivery and employee relationships. In its endeavour to address the implications of our history, the Municipality is committed to moving beyond this racialised past toward a social ethos that nurtures respect for our common humanity, and an ethos that confronts the racialised nature of relationships in the employment and social environment, which includes social media.

This calls for constructive engagement with the challenges of our transition through critical reflection and corrective practices, as individuals, and as an institution. Mindful of the persistent social dislocation and fragmentation caused by this legacy, in particular, racial and economic polarisation, we commit ourselves to the values and principles of the South African Constitution which underpin the vision and mission of the Municipality. In this way we acknowledge the right to live, work, develop and socialise in an environment free of discrimination and harassment.

The Cederberg Municipality is committed to:

- The elimination of racism, racial prejudice and unfair discrimination in its corporate conduct at every level of institutional governance;
- Engendering, through its policies, procedures, processes, practices and structures, an anti-racist and rights-based culture, which includes respect for human dignity and diversity;
- Planning for and promoting equity, equal opportunity and fair treatment through inclusive policies and practices;
- Being an institution where all members of staff and the broader community that we serve and with whom we do business see themselves valued and reflected within the Municipality;
- Promoting a climate that acknowledges and appreciates our diversity;
- Service delivery and social responsibility that promotes staff and community awareness of their social position and responsibilities towards building an anti-racist society;
- A work-life and career advancement in an environment that is anti-racist and anti-discriminatory;
- Modelling anti-racist practices in our institutional and personal behaviour;
- Providing ongoing opportunities for training and education relating to anti-racism;

Comment [n1]: Define equity in the definition section - to include affirmative action

- Implementing measures to redress the disadvantages experienced by designated groups, in order to ensure their equitable representation and treatment in all spheres of their work life.
- Ensuring that all perceived violations and complaints of racial discrimination and harassment are considered serious and dealt with in a manner that is reasonable, fair, urgent, expeditious and consistent.
- Ensuring that complainants do not feel that their grievances are ignored or trivialised, and that they will not suffer any retaliation or victimisation.
- Pursuing all of the above in ways that value all members of staff, including temporary staff and the broader community that we serve and with whom we collaborate.

Comment [n2]: We want to ensure that violations in terms of non implementation of the policy as well as actual cases will be dealt with seriously

As such the Municipality prohibits all forms of racial discrimination and harassment (except in those cases where Municipal policy is formulated specifically to redress past discrimination), and will act against any manifestation or incidence thereof through municipal procedures outlined in this policy and / or other disciplinary channels. It is not considered unfair discrimination to pursue measures consistent with national and institutional guidelines to redress disadvantage.

The purpose of the policy

The policy seeks to inform Cederberg's approach to:

- 1 Race and racism in South Africa;
- 2 Related policies and procedures that seek the achievement of equity in all aspects of Municipal life;
- 3 Enhancing social integration in the Municipality;
- 4 Processes in dealing with discrimination and harassment

The scope of the policy

All Councillors, employees, (including temporary employees and interns) and third parties are subject to this policy and are expected to observe and comply with its terms.

Comment [n3]: Third parties to be covered in code of conduct

Comment [n4]:

Violation of this policy, either through commission or omission, and failure of supervisory or managerial employees to observe and implement its terms is regarded as serious misconduct. In these instances, it is required that the complaint procedures outlined in this policy are observed. Failure thereof may result in disciplinary action.

Comment [R5]: Tighten up the meaning

Any person found guilty of racial harassment and/or discrimination could be discharged from employment. In the case of a third party, the termination of a contract may ensue.

Subsequent to the exhaustion of available internal remedies, all parties retain their rights to pursue the complaint in a court of law.

INTERPRETATION

In this policy, the following terms should be interpreted as such, unless the context indicates otherwise,

- **Complainant** refers to the person alleging that conduct constituting racial discrimination or harassment as defined in this policy, has occurred. This person may or may not be the victim and is not necessarily an **employee** of the **Municipality**
- **employee** means an employee of the Municipality, whether permanent or temporary.
- **'HOD' and 'managers' refer to employees with line-function responsibilities.**
- **Respondent** refers to the person against whom the complaint has been made.
- **Third Party** refers to an individual or company who is neither a councillor nor an employee of the Municipality involved in the Municipality and/ or its related activities,
- **Municipality** means the Cederberg Municipality
- **Municipal community** refers to staff, temporary employees, interns, Council members and associates.
- **Victim** refers to a person against whom an act or acts of racial discrimination or harassment have allegedly been perpetrated as defined in the policy.

A. DEFINITIONS

Equity and Redress

The principle of equity requires fair opportunities to work and progress in the municipality. Applying the principle of equity implies, on the one hand, a critical identification of existing inequalities which are the product of policies, structures and practices based on racial, gender, disability and other forms of discrimination or disadvantage, and on the other, a programme of transformation with a view to redress. Such transformation involves not only abolishing all existing forms of unjust differentiation, but also measures of empowerment to bring about equal opportunity for individuals.

Corrective Measures

These refer to practices, measures and actions taken to redress both past and present injustices, and to promote the achievement of substantive equality. For the purposes of this policy such measures are understood to be a means to an end, rather than an end in itself.

Diversity

Diversity is the contribution all our differences make to building a Municipality that is conscious of its shared values and of how power relations might be used both to discriminate and enable. It refers particularly to differences that have the most serious social and political impact such as race, gender, (dis)ability, sexual orientation, health status, socio-economic status, unequal opportunity, education and employment.

Comment [n6]: Puma to draft definition for meeting of 16 October – We shall check whether this to go back to interpretation

'Race'

'Race' is a social construct which draws on both visible physical characteristics and invisible, socially defined cultural competencies, to categorise, classify and rank individuals and groups for the purposes of producing racialised hierarchies of power and social worth. Defining 'race' as socially constructed necessarily demands cognisance of, and confronting, reified concepts of 'race' and their attendant inequalities, rather than their denial and trivialisation.

Racism

While it can take different forms, all racism draws on racialised ideas and beliefs which shape cultures and practices that sustain the unequal treatment of groups and individuals. Systemic racism is supported by deep-rooted institutional processes, practices and structures which perpetuate unearned privilege and disadvantage. Individual racism draws on the power of group membership to discriminate unfairly against groups and individuals perceived to be either inferior or not to belong.

Racial prejudice

Racial prejudice refers to attitudes and practices that consciously or unconsciously draw on the power of individuals and groups to discriminate unfairly against individuals and groups perceived to be different. This is the belief that 'a particular race or racial group' is inferior to 'another race or racial group' in respect of one, or usually many, qualities or attributes.

Racial discrimination

This policy is specifically focused on unfair racial discrimination, as opposed to constitutionally mandated measures of redress.

Racial discrimination translates into practise racialised ideas and beliefs that have the effect of sustaining unearned privilege and disadvantage, and impeding groups or individuals from performing to their potential. Such discrimination might not be intentional, but must be assessed on the basis of its consequences for those adversely affected.

Racial slurs

This is the use of language that demeans or insults individuals or groups on account of their perceived 'race'.

Racial harassment

Racial harassment is an exercise of power (including racial slurs, threats, jokes, name-calling, insults, and discourteous gestures, verbal or physical abuse) that undermines human dignity and adversely affects an individual's or group's rights and well-being. It includes social behaviour (whether intentional or not) that coerces, manipulates, intimidates, humiliates or takes advantage of persons by using racial meanings both implicitly and explicitly. Racial harassment creates a disabling environment that undermines the ability of individuals or groups to execute their responsibilities and fulfil their aspirations. Typically, but not always, such behaviour occurs in situations where unequal power and authority relations prevail between those who harass and those who are harassed.

Anti-Racism

Anti-racism is an action-orientated approach that challenges reified concepts of 'race', their attendant positionings of privilege and disadvantage, and their institutionalised expressions in social life and practice. This approach seeks to create a Municipality that is both cognisant of these effects, and willing to act against the violence, discrimination and prejudices produced by racism. It advocates institutional and systemic change through ongoing critical dialogue and self-reflection, engenders a revision of practice, and cultivates an inclusive environment.

Retaliation / victimisation / collusion

These occur when the respondent (who may become the accused), individuals associated with the respondent, or any other member of the Municipality negatively affect the complainant, or other individuals involved with the investigation or grievance procedure. This includes but is not limited to the following: intimidation, threats, obstruction or contribution to the obstruction of the investigation, and/or related processes and outcomes.

Comment [n7]: FB to work on definition

Comment [R8]: Alleged perpetrator???

Comment [R9R8]:

Transformation

The Municipality views transformation as a multifaceted and integrated process by which the Municipality continuously renews itself in an ongoing effort to represent in all aspects of its life and functions the vision and ideals of its mission and values. In this effort, CEDERBERG strives to redress past injustices, promote equal opportunity for all, reflect in the profile of its staff the demographics of the province in which it operates, safeguard human rights and ensure that its system of governance uphold the inherent dignity of all and meet the development needs of South Africa's emerging democracy. Transformation must, therefore, permeate the Municipality and involve all members of the Municipality.

Comment [n10]: NM to put in def

Reporting

A complainant (or person acting on behalf of the complainant) must endeavour to report only instances where there is a bona fide belief that an act of racial harassment or racial discrimination has occurred.

Comment [R11]: Shift to beginning

Anonymous complaints will not be entertained or acted upon. The rights of complainants will be protected, as will the rights of those complained against.

False accusations of racism will be treated as a very serious and dismissible form of misconduct, employees should thus refrain from making false allegations of racism against an individual, groups or third parties.

Third Party

Third party refers to individuals and groups who are not members of the Municipality but are involved as third parties in the provision of services.

B. THE ROLE OF ALL STAFF WITH SUPERVISORY AND LINE-MANAGEMENT RESPONSIBILITIES (MANAGERS)

Municipal employees with supervisory and/or managerial responsibilities are obliged to take all reasonable steps to create and maintain a working and learning environment that is free from racial harassment, discrimination and prejudice. In their respective areas of responsibility, managers are required to:

1. familiarise themselves with the terms of this policy;
2. assume responsibility for understanding and implementing the policy;
3. communicate the policy, including amendments to the policy, to all employees in their respective departments;
4. attend training and educational sessions on this policy offered by the Municipality;
5. act by example with respect to behaving in inclusive, affirming and enabling ways and refraining from committing acts of racial harassment;
6. discourage unacceptable behaviour on the part of others;
7. ensure that third parties are not subjected to racial harassment, prejudice and discrimination within the Municipality;
8. take appropriate action in accordance with this policy when instances of racial harassment, prejudice and discrimination occur;
9. ensure that complaints of racial harassment remain confidential outside of appropriate channels of communication (as outlined in the procedure section of this policy);
10. take measures, where appropriate, to prevent racial harassment, prejudice and discrimination from recurring, whilst at the same time observing the rights of such employees;
11. ensure that employees remain informed of the terms of this policy;
12. effectively oversee and monitor the implementation of, and the adherence to the above requirements, and
13. report on issues arising from the above requirements, when requested to do so, by the relevant Director, or the Municipal Manager.

C. DISSEMINATION

The Municipality, in meeting its legal requirements to disseminate this policy effectively, will take all reasonable steps to communicate and create on-going awareness of its contents to all employees and councillors. In order to achieve this:

1. The Municipality shall upload this policy on the municipal website.
2. The Municipal Manager, after the formal adoption of this policy, and/or subsequent amendments to it, shall issue a statement on its adoption and

implications; and maintain regular communication with the various directorates on related issues.

3. The Manager Human Resources:

- 3.1 shall ensure that this policy is fully outlined during the orientation of staff entering the Municipality for the first time.
- 3.2 shall communicate by written means (general notice) the existence of this policy and the seriousness of racial harassment and discrimination to employees.

4. The Director Corporate Services:

- 4.1 shall ensure that this policy is fully outlined in the staff induction programme.
- 4.2 shall ensure that Human Resources Advisors and staff members responsible for employee relations are trained in the effective dissemination of this policy.

5. The Communication and Intergovernmental Relations (CIGR) Office

The CIGR:

- 5.1 shall regularly update the Municipal website regarding racial harassment;
- 5.2 ensure that the Municipal media regularly address issues relating to **racial harassment, or discrimination in general**, and the specifics of this policy;
- 5.3 ensure that the existence of this policy and the seriousness of racial harassment and discrimination are effectively communicated throughout the Municipality;
- 5.4 In addition to the aforementioned activities, the Municipality may develop further protocols to:
 - 5.4.1 ensure that those responsible for communicating information on the policy do so in an accurate and consistent manner;
 - 5.4.3 raise awareness about racial harassment and this policy through ongoing education and training;
 - 5.4.4 monitor the implementation of this policy;
 - 5.4.5 ensure, facilitate and manage the effective functioning of investigations, informal and formal procedures;**
 - 5.4.6 submit annual reports to the Municipal Manager on the cases of **racial and other kinds of harassment** managed with an appropriate analysis of the information and action taken;
 - 5.4.7 Annually report to the Municipal Manager on the communication of this policy for the purpose of reviewing the effectiveness of the communication of this policy.

D. EDUCATION

- 6. The Municipality is committed to developing and supporting understandings of race and racism. As a service delivery organisation, it aims to provide support activities and ongoing education that:
 - makes visible racism in all its forms;

- engages with the gravity and consequences of racial harassment and discrimination, and
 - works towards their elimination.
- 6.1 Within 3 months of the adoption of this policy, the Director Corporate Services shall arrange for training of all managerial staff on the implementation of this policy in their respective directorates / departments. This training will be repeated for all new managerial staff in the first three months of every calendar year.
- 6.2 In addition to the initial training, all managerial staff should attend refresher and update training sessions annually.
- 6.3 Within six (6) months of the adoption of this policy the Director Corporate Services must present a workshop on this policy that shall be attended by:
- 6.3.1 The Leadership of the Municipality;
 - 6.3.2 The Municipal Manager and Heads of Department (Directors)
 - 6.3.3 The Human Resources department;
 - 6.3.4 Managerial / Supervisory staff
 - 6.3.5 Union Representatives; and
 - 6.3.6 All employees in the various departments.
- 6.4 The office of the Director Corporate Services shall repeat the workshop referred to in 6.3 at least once a year after the initial workshop to enable newly appointed employees to the positions or departments listed in 6.3, and those who could not attend the initial workshop, to attend.

E. PROCEDURES

8. Complaints of racial harassment and/or discrimination must immediately be brought to the attention of the **Municipal Manager**.
- 8.1 "*Immediately*" shall mean as soon as is reasonably possible in the circumstances. Late reporting on the part of the victim will not necessarily have negative consequences for the process of decision-making relating to the merits of the case.
- 8.2 Racial harassment may be brought to the attention of the **Municipal Manager** by the victim or any other person aware of such harassment, for example, a friend, colleague, Human Resources official or employee representative acting on the request of the victim. If the racial harassment is of a particularly serious nature, the victim should be encouraged to inform the **Municipal Manager in person**.
- 8.3 **Any complaint of racial harassment will be recorded in writing by the Municipal Manager.** In instances where the racial harassment is brought to the attention of a supervisor or manager, that person is required to immediately refer the complaint to the relevant **Director**.
- 8.4 The Director will be responsible to take all reasonable steps to ensure that such a complaint is dealt in terms of Council's disciplinary procedure, and such disciplinary procedure must be executed expeditiously and appropriately.

- 8.5 The Presiding Officer of a disciplinary hearing may recommend that the person found to be in contravention of this policy be encouraged to participate in programmes designed to educate and assist him or her in learning different ways of engaging with issues of diversity.
9. Nothing in this policy prevents either the victim or the perpetrator from taking civil action as a result of the alleged racial harassment in terms of the common law or equality legislation or from referring the matter to any State Institution supporting constitutional democracy.
10. Should the matter not be satisfactorily resolved by the internal procedures outlined under E, the victim (if an employee) may refer the dispute to the SALGBC. Similarly a respondent (if an employee) may refer a dispute arising from disciplinary action taken by the Municipality to the SALGBC.