



HUMAN RESOURCE POLICY PLACEMENT POLICY

Policy No: NLMHREN003	Effective Date: 01 April 2008
Approved:	Review Date: None - Archived

Notwithstanding the review date herein, this policy shall remain effective until such time approved otherwise by Council and may be reviewed on an earlier date if necessary, subject to Labour Law Dispensation, operational requirements and review requirements contained in the Authority section of this policy document.

1. SCOPE

This policy applies to all existing and new positions within Ngwathe Local Municipality.

2. PREAMBLE

Unless stated otherwise by the context, the following words shall have the following meanings:

APPEAL – to lodge an appeal against a resolution of the Objections Committee;

BASIC CONDITIONS OF EMPLOYMENT ACT – the Basic Conditions of Employment Act, 75 of 1997;

DISPUTE – includes an alleged dispute;

DISTRICT MUNICIPALITY – a category C municipality envisaged in section 155(1(c) of the Constitution;

DUTY SHEET – a summary of all the detailed functions and responsibilities of a post;

EMPLOYEE – a permanent, temporary, part-time or contract employee or an apprentice receiving pay or entitled to it, but excluding a student, a subsidised labourer, an independent contractor or mandatory or an agent;

EMPLOYER – the same as “Municipality”;

EMPLOYMENT EQUITY ACT – the Employment Equity Act, Act 75 of 1997;

GEOGRAPHICAL RELOCATION – the relocation of an employee if the core of the tasks performed by him is no longer required to be performed at the place where the employee normally works;

HIS/HE/HIM – includes the feminine

IMATU – the Independent Municipal and Allied Trade Union;

INTEGRATED DEVELOPMENT PLAN (IDP) – a plan envisaged in section 23 of the Municipal Systems Act, Act 32 of 2000;

LABOUR FORUM – a forum established at the workplace with equal representation from the Trade Unions and the Employer, which has the powers and functions of negotiating and/or consulting;

LABOUR RELATIONS ACT – the Labour Relations Act, Act 66 of 1995; as amended

LOCAL MUNICIPALITY – a category B municipality envisaged in section 155(1)(h) of the Constitution;

MOST MATCHED JOB – the most matched job content focusing on the crux of the job;

MUNICIPALITY:

- a) as a juristic entity, includes a municipality referred to in section 155(b) of the Constitution, and
- b) as a geographic area, means an area determined in terms of the Local Government Municipal Demarcation Act, Act 27 of 1998;

MUNICIPAL MANAGER – the chief executive officer of the Municipality irrespective of an employee acting in such capacity in terms of a decision of the Municipality as contemplated in section 82 of the Structures Act;

MUNICIPAL SYSTEMS ACT – the Local Government: Municipal Structures Act, Act 117 of 1998;

OBJECTIONS COMMITTEE – a committee appointed by the SALGBC to decide on objections that were lodged;

OPERATIONAL REQUIREMENTS – requirements based on the economic, technological, structural or similar needs of the employer;

ORGANOGRAM – the organisational representation of the approved staff establishment of the Municipality;

PLACEMENT COMMITTEE – a committee which must consider and reach consensus regarding the placement of existing employees into posts in the new structure;

PLACEMENT POLICY – a policy to ensure that the placement of staff shall be done in a manner that is consistent with any existing Employment Equity and Skills Development Plan and/or the objectives of the Employment Equity and Skills Development Acts and any applicable legislation;

POST – a position in the Municipality’s hierarchical structure to which specific duties are coupled;

REDUNDANCY – the term applied when factors such as economic recessions, mechanisations, loss of income, re-organisation and rationalisation of manning levels result in particular jobs no longer being necessary, in which event the specific job becomes redundant;

SALGA – the South African Local Government Association;

SALGBC – the South African Local Government Bargaining Council;

SAMWU – the South African Municipal Workers Union;

SKILLS DEVELOPMENT ACT – the Skills Development Act, Act 97 of 1998

TASK – Tuned Assessment of Skills and Knowledge job evaluation system;

TRADE UNION – a registered trade union or two or more registered trade unions that are sufficiently representative of the employees;

UNION REPRESENTATIVE – a representative as defined in section 213 of the Labour Relations Act; as amended.

3. POLICY

The purpose of this policy is to:

- i. ensure that the municipality has the human resources that will assist it to achieve its development objectives effectively, efficiently and economically; and
- ii. attempt to avoid, with due regard for the principle of affordability and the operational requirements of the municipality, job losses due to the restructuring of local government.

The parties accept that:

- Arising from the need to restructure local government and functions within the applicable demarcated areas, the re-organisation of the existing staffing structure (including geographic re-deployment) may be necessary to meet operational objectives to service delivery).
- All placements shall take place in accordance with principles contained in this agreement.

4. STAKEHOLDER ANALYSIS

Role	Responsibility
Municipal Manager / Director Corporate Services (subject to its delegations if any)	
Council	
Line Manager	

Human Resources	
Labour Representatives	

5. PROCEDURE

From the date of signature hereof, the municipality shall not finalise the staffing of a structural organogram other than in terms of this agreement.

The placement of staff shall be done in a manner that is consistent with any existing Employment Equity and Skills Development Plan and/or the objectives of the Employment Equity Act and Skills Development Act and any applicable legislation.

This policy and procedures apply to all posts in the new organogram of the municipality, except that of:

- Municipal Manager
- Managers directly accountable to the Municipal Manager, and
- Personal Assistant, Policy Advisor or other political appointments to the office of any political office-bearer of the municipality, appointed in terms of a fixed term contract.

DEVELOPMENT OF ORGANOGRAM

The Municipal Manager must approve a new organogram for the municipality and submit it to Council for cognisance, after which it will be submitted to the Local Labour Forum) that will:

- assist in implementing its IDP and

- comply with the provisions of Section 51 of the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000) and other relevant organisational design principles.

The Management Team must, as soon as possible after approving the new organogram, submit a copy thereof to each of the Trade Unions and call on them to submit their written comments thereon to her/him. The Trade Unions may be granted the opportunity to hold shop stewards' workshop.

The Trade Unions must submit their comments, if any, to the Municipal Manager within 30 days after the Council adopted the draft organogram.

The Management Team must submit the proposed new organogram to the Local Labour Forum for their comments.

The Local Labour Forum must attempt to achieve consensus on the organogram.

New organogram shall be finalised as soon as possible, but unless agreed otherwise, by not later than 9 months from date of signature of this agreement.

It is agreed that a new organogram, may only be an interim arrangement to ensure proper functioning of the administration until finality has been reached on the division of functional competencies between District and Local Municipalities.

PLACEMENT PRINCIPLES/CRITERIA

Placement according to job content

Employees should be placed in positions according to the degree to which their current jobs are the same or similar to the job duties of a new post in the new organogram.

Where there are no suitable candidates, positions/vacancies should be advertised. All post level 1 – 3 positions must be inclusive of a performance contract. All new and major changed positions/posts must be advertised internally for a period of fourteen working days, and if there is no suitable candidate, the post shall be advertised externally. Persons from designated groups shall be given first priority.

Employees follow functions

Geographical relocation of employees may only take place for the operational requirements of the municipality when-

- the functions assigned to the position concerned are relocated to another place;
- the functions assigned to different positions are combined and/or reduced in order to rationalise resources or
- the functions assigned to the position concerned had been abolished in that particular place.

Preference is to be given to existing employees

Every attempt must be made to accommodate existing employees in the new structure, taking into account the operational requirements of the Municipality.

The municipality shall use its best endeavour to place existing employees that have been transferred in terms of Section 197 of the Labour Relations Act into posts created in new structures. Section 197 of the Labour Relations Act, 1995 (Act no. 66 of 1995) reads as follows:

A contract of employment may not be transferred from one employer (referred to as the “old employer”) to another employer (referred to as “the new employer”) without the employee’s consent, unless –

- a. the whole or any part of a business, trade or undertaking is transferred by the old employer as a going concern; or
- b. the whole or a part of a business, trade or undertaking is transferred as a going concern –
 - i. if the old employer is insolvent and being wound up or is being sequestrated; or
 - ii. because a scheme of arrangement or compromise is being entered into to avoid winding-up or sequestration for reasons of insolvency.

If a business, trade or undertaking is transferred in the circumstances referred to in subsection 1(a), unless otherwise agreed, all the rights and obligations between the old employer and each employee at the time of the transfer continue in force as if they were rights and obligations between the new employer and each employee and, anything done before the transfer by or in relation to the old employer will be considered to have been done by or in relation to the new employer.

If a business is transferred in the circumstances envisaged by subsection 1(b), unless otherwise agreed, the contracts of all employees that were in existence immediately before the old employer’s winding-up or sequestration transfer automatically to the new employer, but all the rights and obligations between the old employer and each employee at the time of the transfer remain rights and obligations between the old employer and each employee, and anything done before the transfer by the old employer in respect of each employee will be considered to have been done by the old employer.

An agreement contemplated in subsection 2 must be concluded with the appropriate person or body referred to in section 189(1).

A transfer referred to in subsection 1 does not interrupt the employee's continuity of employment. That employment continues with the new employer as if with the old employer.

The provisions of this section do not transfer or otherwise affect the liability of any person to be prosecuted for, convicted of, and sentenced for any offence.

Redundancy

As far as possible redundancy should be avoided, taking into account the affordability of employment levels and the operational requirements of the municipality. In order to avoid redundancy, the municipality shall endeavour that alternative employment offered to existing employees is reasonable.

When the municipality offers alternative employment to an existing employee it must inform the employee in writing of the remuneration and other employment conditions applicable to the post offered.

More employees than posts

Where more employees can not be placed to the number of positions available, the principles of:

Affirmative Action;

Employment Equity Act;

Length of service; coupled with

Highest qualification and skills obtained

Must be followed to select candidates for placement.

Grievance procedures not applicable

Any employee who is aggrieved by a decision regarding her/his placement or lack thereof, must use the objection and appeal procedures set out in this policy and may not use the grievance procedure in terms of her/his Conditions of Service.

Every individual employee or Trade Union on behalf of his/her members shall have the right to refer a dispute about placement or non-placement to arbitration. Such dispute shall be referred to arbitration within 14 working days of the date of receipt of the decision by an individual employee.

The arbitration shall be conducted in terms of the dispute procedure as per the flow chart contained in the Labour Relations Act.

UPDATING OF DUTY SHEETS

The Management Team must take appropriate arrangements to ensure that every current employee's duty sheet is updated according to her/his current job.

An updated duty sheet must be certified as correct by an employee's immediate supervisor after negotiations has taken place and agreement been entered into;

An updated duty sheet must be a valid statement of the tasks an employee is responsible for and which she/he actually performs in her/his current job.

CLASSIFICATION OF POSTS

As soon as the Municipal Manager has approved the new organogram the Placement Committee must classify all posts indicated in the approved organogram into one of the following four groups of posts:

Unchanged posts

These are posts that, in terms of content and requirements, are the same as an existing post in the municipality. Such posts may be geographically relocated or not.

Minor changed posts

These are posts that exist in the municipality the content of which had been changed slightly, without material change to the level of responsibility imposed on the incumbent. Such posts may be geographically relocated or not.

Major changed posts

These are posts that exist in the municipality, the content and duties of which had undergone significant overhaul so as to have changed the level of responsibility imposed on the incumbent thereof. Such posts may be geographically relocated or not.

If there is no suitable internal candidate, the vacancy should be advertised externally.

- Internal/External candidates from designated groups
- Internal/External candidates from non-designated groups
- External candidates (provision of the Employment Equity Act will apply)

New posts

All new posts will be handled in terms of the Recruitment and Selection Policy. The posts shall be advertised both internally and externally and shall be filled giving preference to:

- Internal candidates from designated groups
- Internal candidates from non-designated groups
- External candidates (provision of the Employment Equity Act will apply)

The Management Team will endeavour to finalise all placements within a period of six (6) months after the adoption of the organogram.

Major changed and new posts must be evaluated in terms of the TASK (Tuned Assessment of Skills and Knowledge) job evaluation system and according to the procedure determined by the SALGBC.

PLACEMENT COMMITTEE

As soon as the organogram has been approved, a Placement Committee shall be established.

The Placement Committee shall be a sub-committee of the Local Labour Forum.

A placement committee must consist of not less than 4 and not more than 8 persons.

Half of the members of the placement committee must represent the employer and the other half IMATU and SAMWU on a proportional basis.

Should the Local Labour Forum fail to make an appointment contemplated in paragraph 7.1 above, shall be referred to the Objection Committee referred to in paragraph 9 and 12.3 below after taking due consideration of the reasons for the failure of the Local Labour Forum to make such appointment.

As soon as the particulars of the members of the placement committee are established or 30 days have expired after the council called upon the trade unions to appointing their representatives, the council must inform SALGBC (Free State Division) and request it to appoint an objections committee for the municipality.

Any trade union which is not a part of the SALGBC that represents more than one employee of the municipality may appoint one shop steward/representative as observer to the placement committee.

An observer in terms of para above may participate in any deliberation and discussion in the placement committee but may not take part in making any decision.

TERMS OF REFERENCE OF THE PLACEMENT COMMITTEE

The Placement Committee will have the following terms of reference:

- To consider and reach consensus regarding the placement of existing employees into posts in the new structure.
- Where consensus cannot be reached, all disputes will be referred to the Objection Committee after which it will be implemented.
- The rights of the unions and their members will in no way be prejudiced by the fact that they participate in the decision-making process of the Committee.

- The placement committee must consider the municipality's-
 - classification of posts in terms of post classification above,
 - placement proposals,
 - list of unplaced employees and attempt to achieve consensus regarding the placement of existing employees.

PLACEMENT OF EMPLOYEES

Management must in writing submit its placement proposals in the prescribed format, together with a list of employees it had not placed (if any) and the reasons therefore, to the placement committee.

A letter shall be sent to each employee informing him or her of the placement process and especially the location of the general notice board or other agreed notification places for placement.

Prior to forwarding submissions to the Placement Committee, each employee must receive a letter and a copy of the relevant section of the organogram that indicates their proposed post and classification thereof in which they will be placed.

IMPLEMENTATION OF PLACEMENT DECISIONS

All decisions on placement, whether agreed to or not shall be communicated to employees by notice displayed on the general or other agreed notice boards.

The individual employee to be placed must also be personally notified in writing. The notification must state whether the placement is by consensus of the Placement Committee.

If the placement committee cannot reach consensus on any placement within 30 days after the council established it, the dispute will be referred to the Objection and Appeal Committees.

The decisions of the placement committee or the council, must be published in a circular that must be displayed on the municipal notice boards at the offices of the municipality and addressed to every employee personally.

A decision published in terms of the above, comes into operation and is implemented with effect from the first day of the month following the month during which it was published.

The municipality must, within 30 days after the placement decision was published, comply with the provisions of section 29 of the Basic Conditions of Employment Act in respect of every employee, whether placed or not. Section 29 of the Basic Conditions of Employment Act 1997 (Act 75/1997) reads as follows:

An employer must supply an employee when the employee commences employment, with the following particulars in writing –

- a. the full name and address of the employer;
- b. the name and occupation of the employee, or a brief description of the work for which the employee is employed
- c. the place of work, and, where the employee is required or permitted to work at various places, an indication of this;
- d. the date on which the employment began;
- e. the employee's ordinary hours of work and days of work;
- f. the employee's wage or the rate and method of calculating wages;
- g. the rate of pay for overtime work;
- h. any other cash payments that the employee is entitled to;
- i. any payment in kind that the employee is entitled to and the value of the payment in kind;

- j. how frequently remuneration will be paid;
- k. any deductions to be made from the employee's remuneration;
- l. the leave to which the employee is entitled;
- m. the period of notice required to terminate employment, or if employment is for a specified period, the date when employment is to terminate;
- n. a description of any council or sectoral determination which covers the employer's business;
- o. any period of employment with a previous employer that counts towards the employee's period of employment;
- p. a list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the employee where a copy of each may be obtained.

When any matter listed in subsection (1) changes –

- a. the written particulars must be revised to reflect the change; and
- b. the employee must be supplied with a copy of the document reflecting the change.

If an employee is not able to understand the written particulars, the employer must ensure that they are explained to the employee in a language and in a manner that the employee understands.

Written particulars in terms of this section must be kept by the employer for a period of three years after the termination of employment

OBJECTIONS COMMITTEE

The SALGBC (Free State Division) must appoint in respect of every municipality an objections committee.

Should the SALGBC fail to make such an appointment within 60 days after being requested to do so, the municipality may establish an objections committee. The provisions of par. 7.1 apply, with the necessary changes required by the context, to the appointment of an objections committee in terms of this paragraph.

An objections committee must consist of an equal number of employer and employee representatives. Any party represented in the objections committee has the right to be accompanied by not more than 2 advisors to any meeting. An advisor may be a trade union official or an employee of SALGA (Free State) or the municipality concerned.

An objections committee may not include a member of a placement committee.

An objections committee must decide an objection within 15 work days after the closing date for objections.

An objections committee must, in making a decision, comply with the principles contained in par. 12.3 below.

A senior employee may be appointed to act as secretariat to the Committee to keep the minutes of the objections committee and must in writing inform every employee who lodged an objection, within 2 work days after her/his objection had been considered, of the resolution of the objections committee.

APPEALS

The Union and/or the Municipality has the right to appeal against a resolution of an objections committee and, in case of an employee, to be assisted in making her/his appeal as set out in par. 11.2 above.

The SALGBC (Free State Division) must prepare and publish a list of arbitrators that must be engaged to decide any appeals in terms of par. 12.1

Should the SALGBC fail to make such a list available within 30 days after being requested to do so, the municipality and the trade unions may refer the matter to arbitration by an arbitrator they agreed upon.

Arbitration of an appeal in terms of par. 12.1 is for the cost of both parties.

An employee and/or the Employer must lodge a written appeal within 2 workdays after she/he had received the resolution with regard to her/his objection above with the secretariat of the placement committee.

The arbitration of an appeal must commence within 10 workdays after it had been lodged and must be resolved within 5 workdays after its commencement. An arbitration award must be made within 5 workdays after conclusion of the arbitration.

The arbitration award is final and binding on the parties.

Section 138 of the Labour Relations Act shall apply to the appeal proceedings.

GEOGRAPHICAL RELOCATION OF EMPLOYEES

Decision to relocate

Whenever some of the tasks performed by an employee are no longer required to be performed at the place where the employee normally works, the decision of the council whether or not the employee must relocate is final.

Grounds for relocation

An employee may only be required to work in another geographical place within the municipal area if-

- the task the employee performs are performed in that other place or
- the functions the employee performs had been abolished in the area where she/he worked in the past or
- it is required in the interest of optimal utilisation of the municipality's resources.

Permanent relocation

Where an employee who had been relocated chooses to move permanently to another part of the municipality area in order to be closer to employee's work place, the municipality must pay the cost of moving her/his household goods to such new place of residence within a period of 3 months failing in which relocation costs will be forfeited.

Travelling to and from work

Where an employee's job had been relocated and she/he does not relocate her/his residence to such place, the employee will pay for his own travelling costs to and from work.

6. AUTHORITY

Formulation Policy	:	Municipal Manager
Authorisation Policy	:	Council
Ownership and Maintenance Manager	:	Director Corporate Services

This policy may be amended by way of consultation in the Local Labour Forum.

However such amendments should not render this Municipality inefficient

A period of 45 days should be given to both parties for preparations

Any of the parties to the Local Labour Forum may propose amendments by giving 30 days notice to the other providing written motivations for such proposals.

Once consensus is achieved in the Local Labour Forum, it shall be submitted to Council for ratification.