

ITEM A-CORP (01-2021) CSSOC CM 25/03/2021	CORPORATE & SHARED SERVICES OVERSIGHT COMMITTEE REPORT ON HUMAN RESOURCES MANAGEMENT AND DEVELOPMENT DEPARTMENT: RE ON THE RESCISSION OF THE CURRENT RECRUITMENT AND SELECTION POLICY AND APPROVAL OF THE NEW TALENT ACQUISITIONS POLICY (PREVIOUS NAMED RECRUITMENT AND SELECTION POLICY)
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RESOLVED

- 1. That** the Corporate & Shared Services Oversight Committee Report on Human Resource Management and Development Department: Report on the Rescission of the Current Recruitment and Selection Policy and Approval of the New Talent Acquisition Policy (Previously Named Recruitment and Selection Policy) **BE NOTED.**
- 2. That** the Human Resources Management and Development Department request RESCISSION of the current Recruitment and Selection Policy attached as annexure "B" **BE APPROVED.**
- 3. That** Human Resources Management and Development Department request for the APPROVAL of the New Talent Acquisition Policy attached as annexure "A" **BE APPROVED.**

Talent Acquisition Policy



HUMAN RESOURCES MANAGEMENT

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1. INTRODUCTION

- The COE is an equal opportunity employer, committed to a systematic approach to recruitment in order to attract, select and appoint the best suitable talent and promote a diverse workforce through a transparent, fair and evidence-based process.
- The CoE aims to determine suitability of candidates for particular jobs through the use of various selection and risk assessment techniques, as contained in this policy.
- In accordance with the Employment Equity Policy and relevant employment legislation, the municipality seeks to promote best practices in the recruitment process, whilst eliminating inconsistencies and unfair practices.
- No applicant may be unfairly discriminated against, directly or indirectly.
- All recruitment, both for permanent and temporary employees, will be underpinned by sound commercial rationale as per the workforce capacity planning of departments within the CoE.
- The CoE recognises the need to recruit high-performing talent and therefore advertises vacancies through various media, while also providing career opportunities for existing staff who comply with the requisite minimum requirements and other criteria.

2. PURPOSE

- To establish a standardized recruitment and selection process for the CoE's permanent, fixed-term contract and all other recruitment which is in compliance with employment legislative frameworks, in line with business needs, transformational objectives and integration with talent management strategies.
- To attract, obtain and retain suitably qualified candidates to ensure that effective services are available to meet the CoE's immediate and future human resources needs; and to
- Establish a positive image of the CoE and positioning it as the employer of choice.

3. APPLICABILITY

3.1. All vacancies across the CoE:

3.1.1. Recruitment of graduates, learnership and other forms of employee intake.

3.1.2. Applicants who apply for vacant positions.

3.1.3. All persons responsible for the implementation of this policy.

3.1.4. All Senior Managers and Section 56/57 appointments in line with the provisions made on the MSA (Municipal System Act) regulations promulgated thereunder.

4. LEGISLATIVE FRAMEWORK

Parties using this document will apply the most recent edition of the legislative documents and policies listed below:

- a) Basic Conditions of Employment Act 75 of 1997 (as amended)
- b) Constitution of the Republic of South Africa, 108 of 1996
- c) Collective Agreements and council resolutions relevant to the application of this policy
- d) Employment Equity Act 55 of 1998 (as amended)
- e) Immigration Act 13 of 2002
- f) Labour Relations Act 66 of 1995 (as amended)
- g) Municipal Systems Act 32 of 2000
- h) POPI Act
- i) PAIA Act
- j) Promotion of Administrative Justice Act 3 of 2000
- k) Skills Development Act No. 97 of 1998.
- l) Acting Policy Item ACORP CM. 30/04/2009 (as amended)
- m) COGTA Gazette, 2021 Municipal staff regulations
- n) HR Secondment and transfer procedure (Employee Movement Procedure)

5. DEFINITION OF TERMS

The following terms, abbreviations and acronyms used in this policy document are described below with their corresponding definitions or meaning:

5.1. **“Candidate”** means an applicant for a vacant post;

- 5.2. **“Employee”** an employee is anyone, other than an independent contractor, who works for another person or who assists in conducting the business of an employer;
- 5.3. **“Employer”** referring to the City of Ekurhuleni (CoE);
- 5.4. **“Recruitment practitioner”** an HR professional who is responsible for/or involved in the recruitment process;
- 5.5. **“Fixed-term employee”** an employee employed on a fixed-term contract with a start and end date;
- 5.6. **“Headhunting”** refers to a process of recruitment of a prospective employee, who is working elsewhere and who has relevant work experience and qualifications for a particular job profile. Head hunting is carried out by the HR Department or is outsourced to an agency or job consultant, and is one of the most effective methods for sourcing candidates for scarce and critical positions, senior positions from people who might not necessarily look for a job change;
- 5.7. **“Trade Union”** means organized labour as represented in the CoE by IMATU (Independent Municipal and Allied Trade Union) and SAMWU (South African Municipal Workers Union);
- 5.8. **“Vacant Position”** means a funded position that is on the approved organizational structure of the CoE, which is unoccupied or has become vacant as a result of resignation, death, dismissal, demotion, promotion or medical boarding;
- 5.9. **“Affirmative Action Measures”** measures designed to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of a designated employer;
- 5.10. **“People with disabilities” (PWD)** 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;
- 5.11. **“On boarding / Induction”** a process of orienting and integrating new employees into the organisation, division, or role;
- 5.12. **“Integrity assessment”** an assessment of the truthfulness or reliability of information provided by a candidate;
- 5.13. **“CoE”** refers to City of Ekurhuleni;
- 5.14. **“EEP”** refers to the Employment Equity Plan;
- 5.15. **“ETAS Policy”** refers to the Ekurhuleni Travel Allowance Scheme;
- 5.16. **“Observer”** for the purpose of recruitment and selection, refers to the nominated shop steward, whose role is to observe and comment on the fairness or unfairness of the recruitment and selection process and/or object or dispute when necessary.

6. ROLES AND RESPONSIBILITIES

6.1. Human Resources Department:

- To provide procedural guidance as well as secretariat services during the short listing and the interview processes.
- Ensure compliance to all the legislative requirements and framework during the recruitment and selection process.
- A staff member delegated to provide the secretarial services, may not form part of the selection panel.
- Ensures this policy will be reviewed every 5 (five) years or as and when required by changes in legislation.
- Respect employees' privacy and maintain confidentiality wherever possible.
- Is responsible for the administration of all recruitment, selection, appointments and induction of employees in the CoE.

6.2. Departmental management

- Act as chairperson during the selection and interviews.
- Respect employees' privacy and maintain confidentiality wherever possible.
- On boarding of new employees, permanent and non-permanent.

6.3. Trade Unions

- The nominated shop steward/s to act as observers. However, comment on the fairness or unfairness of the recruitment and selection process, object or/and dispute when necessary.
- The maximum number of the Shop steward is limited to one (1) per trade union for the shortlisting and interview session including an observer for the purposes of training.
- Respect employees' privacy and maintain confidentiality wherever possible.
- Nominated shop steward/s are there to represent the Trade Union as an organisation and its members.

7. CONFIDENTIALITY

- 7.1. All persons involved with the recruitment and selection process must ensure strict confidentiality.

- 7.2. All persons involved must sign the confidentiality form and if not, they must recuse themselves from the process.
- 7.3. Any violation of confidential information could result in any corrective measures being taken against an individual.

8. RECRUITMENT AND SOURCING PROCESS

Recruitment includes a request to fill a vacancy, pre-screening and shortlisting, interviews, offer of employment and appointment.

8.1. REQUEST TO FILL A VACANCY

- 8.1.1. A vacancy has to exist on an approved structure for a position to be filled and must be funded.
- 8.1.2. Where a vacancy exists or a new vacancy is created, a line manager will complete a request to fill a vacancy/requisition to commence the recruitment process.
- 8.1.3. The approval by HR to fill a vacancy will be valid for a period of three (3) months only.
- 8.1.4. If there's no recruitment activity after 90 days after the advert has closed a new request to fill a vacancy should be approved and submitted.

8.2. ADVERTISING

- 8.2.1. Vacancies advertised/re-advertised internally and externally on the CoE's website will be published for a minimum of (seven) 7 calendar days and a maximum of (fourteen) 14 calendar days unless otherwise stated by the HOD: HR or delegated official.
- 8.2.2. Closing dates for all internal and external applications will be strictly adhered to and will be clearly stipulated in the advertisement. Any extension of the advert, will be approved by HOD: HR or delegated official.
- 8.2.3. An external advertisement for a particular vacancy may be published simultaneously with the internal advertisement, but never before the internal advertisement. At all times, only language and terminology that does not unfairly discriminate may be used in advertisements.
- 8.2.4. All employment advertisements for vacancies will include the following clauses:

- a) "In accordance with the employment equity plan of CoE, preference may be given, but is not limited to, candidates from underrepresented designated groups.
 - b) "Candidates with disability are encouraged to apply."
 - c) "CoE reserves the right not to make an appointment to the posts as advertised".
 - d) "Unless otherwise advised, if you have not been contacted within six (6) weeks after the closing date of this advertisement, please accept that your application was unsuccessful."
- 8.2.5. In order to expedite the filling of positions in exceptional circumstances and/or in instances where the position has been advertised on two occasions and no suitable candidate is found and recommended by the panel; an alternative recruitment and selection method / procedure may be determined by the HOD: HR or delegated official.
- 8.2.6. If the position is categorised as a critical and scarce skill post, alternative recruitment methods, such as executive search, head hunting, referrals and re-advertising, may be considered.
- 8.2.7. Headhunting will not be encouraged except in the following exceptional circumstances:
- a) Wherein an individual based method of recruitment has proven to be unsuccessful on more than 2 (two) successive occasions to find a suitable candidate, the recruiting department HOD and the HOD: HR or delegated official, should authorise the use of a recruitment agency that is registered as a vendor on the CoE list.
 - b) This method shall be used only in conjunction with the normal process of advertising the vacancies i.e. an identified suitable candidate/s shall be requested to apply for the advertised position/s, where after the normal process of screening and selection will apply after the advert closing date.
 - c) Candidates identified must be interviewed by the same panel and against the same criteria used during the interviews.
 - d) Recruitment agencies may be used to assist the departments to head hunt people for scarce skills in demand, provided that they comply with the recruitment policy and procedure of the CoE and the following must apply:

- The recruiting department shall be responsible for the payment of the service provider or the recruitment agent if such request has been approved by relevant HOD.
- 8.2.7 All advertisements shall be in a standardized format representing the job specifications as outlined in the job description and as such forming the basis for shortlisting and interview criteria.
- 8.2.8 If the CoE does not have the capacity to manage the recruitment processes, it may appoint a recruitment agency to undertake the recruitment processes including:
- a. Response handling;
 - b) Compilation of –
 - Longlist of all applicants who applied for the advertised post
 - Preliminary list of all applicants who meet the requirements
 - List of all applicants who do not meet the requirements but have the potential and
 - List of all applicants who do not meet the requirements
 - c) The recruitment agency shall not undertake the selection process.

8.3. PRE-SCREENING AND SHORTLISTING

- 8.3.1. The shortlisting process to be managed and facilitated by the Human Resources Recruitment Practitioner in partnership with the recruiting department.
- 8.3.2. The chairperson of the panel must be the supervisor, or a staff member employed, at least one job grade higher than that of the advertised post.
- 8.3.3. Only candidates who have applied via official sourcing methods and who have met the minimum criteria should be considered for pre-screening and shortlisting.
- 8.3.4. Employment equity requirements should be considered in line with the employment equity plan.
- 8.3.5. Shortlisting should be carried out by a maximum of five officials (i.e. two (2) from the Department and the other one (1) from another Department) plus HR secretariat. The shop stewards attend as observers.
- 8.3.6. A vacant position will be open to all eligible applicants, though preference must be given to internal candidates and that only external candidates will be considered if no suitable internal candidates are available internally.

- 8.3.7. Interns, Learners and Graduates who are on a training programme will be considered for advertised positions in accordance with the Talent Acquisition Policy. It is the responsibility of the Departments to provide commitment that these Interns, Learners and Graduates will complete their programme.
- 8.3.8. The Intern, Learner and Graduate that has been on training with working experience will be considered for the selection purposes when it is related or relevant experience to the job.
- 8.3.9. In line with Item A- CORP (70-2011), Human Resource Management and Development: Absorption of Learners who completed Artisan related qualification and other related qualifications and other related trades to address scarce and critical skills in COE,
- 8.3.10. The Learners on leadership / apprenticeship training in terms of section 18.1 of Skill Developments Act of or Section 28 of Manpower Training Act of 1981 be appointed on the available Artisans positions, as and when they complete their qualifications and are declared competent in all unit standards and are in position of red seal/trade test certificate, and
- 8.3.11. The Learners on leadership / apprenticeship training in terms of section 18.2 of Skills Development Act of 1997, as amended, be absorbed in the vacant positions of CoE as the Artisan Assistants until they received their Red Seal / Trade certificates.
- 8.3.12. If there are less positions than applicants, the ring-fence process for interviews needs to be followed to obtain the best suitable candidate.
- 8.3.13. In line with the Employment Equity Act, selection criteria will be based on the minimum inherent requirements of the job, having regard to the following factors:
- a) Formal education – relevant qualification as per SAQA levels, with due consideration to circumstances where the qualification is a statutory, or is an essential requirement for the position;
 - b) Recognition of prior learning – where the individual has undergone an RPL process and has acquired a declaration of competence certificate and credits towards a qualification;
 - c) Relevant experience – where the individual has demonstrated knowledge and skills in previous positions that are similar or related to the position being applied for; and/or

- d) Capacity to acquire, within a reasonable time, the ability to do the job – the candidate’s potential to do the job will be assessed using a battery of relevant psychometric assessments.
- 8.3.14. When determining whether a person is suitably qualified for a job, the CoE will consider:
- a) All the factors listed in subsection 8.3.13 above; and
 - b) The minimum inherent requirements of the job will be considered in conjunction with the employment equity plan.
- 8.3.15. Short listing criteria shall be objective and related to the inherent requirements of the job and realistic future needs of the organisation.
- 8.3.16. To be fair and consistent, all candidates must be screened and measured against the same criteria.
- 8.3.17. All shortlisted candidates are required to submit certified copies of their qualifications, identity document, professional registration (when required) and driver’s licence (when required) to the Recruitment practitioner prior to attending the interview.
- 8.3.18. The constitution of the panel members will remain the same until the entire recruitment process has been completed.
- 8.3.19. The CoE will not consider the applicant for employment where the candidate:
- a) Has been employed in a position at CoE for less than twelve (12) months. Where there is a compelling reason for an exception, this should be signed off by the relevant HODs.
 - b) As per COGTA Gazette, 2021 municipal staff regulation, page 20, a person who has been dismissed from the municipality for any reason stated in column B of annexure E may not be employed in any municipality before the period set in column C has expired.
 - c) Due to the high volume of applications HR receives per position advertised, the CoE is under no obligation to shortlist all people who meet the requirements due to the limited number of positions.
- 8.3.20. During the shortlisting process, should there be deviation/s requirement that affect the employment equity plans, a written memo requesting the deviation should be sent immediately to the HOD: HR for approval.
- 8.3.21. If a conflict of interest becomes apparent during the selection process, the municipal manager or his or her delegate may take the appropriate steps to remedy the situation, which may include declaring the selection process invalid and commencing a new process.

8.4. SELECTION TESTING/ASSESSMENT

- 8.4.1. According to the Employment Equity Act (1998) “Psychological testing and other similar assessments of an employee are prohibited unless the test or assessment being used:
- a) has been scientifically shown to be valid and reliable;
 - b) can be applied fairly to all employees; and
 - c) Is not biased against any employee or group.
- 8.4.2. An applicant shall when applying for an appointment subject himself/herself to the screening/ assessment techniques determined by the municipality and endorsed by the relevant legal authority.
- 8.4.3. All parties will uphold the strictest confidentiality in respect of any information supplied and information must be kept in the employee’s personnel files. Where it’s not available, it must be requested from the employees already appointed, as all employees files must remain up-to-date.
- 8.4.4. The assessment process is an integrated process and the final decision shall be based on the results of the whole process.
- 8.4.5. All selection tools should be applied consistently on all applicants for a particular position.
- 8.4.6. All rating of candidates against the identified competencies is to be done on the basis of a standardised process.
- 8.4.7. The assessment criteria should be directly related to the job and any considerations on the basis of evidence that may lead to unfair discrimination should be excluded.

8.5. INTERVIEWS

- 8.5.1. Interviews should be carried out by a maximum of five officials (i.e. two (2) from the Department and the other one (1) from another Department) plus HR secretariat. The shop stewards attend as observers.
- 8.5.2. Exceptions to a panel that exceeds a maximum number of three panel members will apply when more vacancies have to be filled through one recruitment project and this exception will be applicable to union observers.
- 8.5.3. The chairperson of the panel must be the supervisor, or a staff member employed, at least one job grade higher than that of the advertised post.

- 8.5.4. All questions should be related to selection criteria derived through job analysis and before the interview commences for the specific post, the selection panel must confirm the selection criteria for the advertised post based on the relevant competencies required for the advertised post.
- 8.5.5. The interviewing process and the questions prepared by the panel will be consistent for all the candidates.
- 8.5.6. The panel will be permitted to allow an observer from HR department and/or from the recognised Trade Unions, for the purpose of relevant training in recruitment and interviewing skills.
- 8.5.7. Panel members and shop stewards, except Human Resources practitioners, shall refrain from interacting with applicants outside the interview venue.
- 8.5.8. The interview panel will be required to declare a conflict of interest for interview and sign a declaration of confidentiality/interest form to be provided by the Human Resources practitioner prior to the interview.
- 8.5.9. The panel members and shop stewards with a conflict of interest in the selection process, of any shortlisted candidates should recuse themselves in the recruitment process in the interest of fairness.
- 8.5.10. Where a panel member has excused himself/herself, a suitable alternative panel member will be given full-delegated authority for the duration of the recruitment process, and such authority will be in writing.
- 8.5.11. The interview panel will recommend the successful or preferred candidate to the delegated authority based on the outcome of the interview.
- 8.5.12. A panel member will provide a written record of responses on the HR questionnaire provided and the individual ratings of the candidates interviewed to the Human Resources practitioner involved in the panel.
- 8.5.13. The municipal manager or his or her delegate must ensure that all the interviewed candidates are informed whether or not they were successful.
- 8.5.14. Unsuccessful candidates must, on request, be provided with reasons in writing as to why they were not successful (within 14 days after the appointment of a successful applicant).

8.6. REFERENCES AND PERSONAL CREDENTIALS VERIFICATION

- 8.6.1. Reference checks and personal credential verification for interviewed candidates who are recommended must be conducted by:

- a) Verifying the candidate's suitability for the job with the current or previous employer;
- b) Establishing the validity of candidate qualifications and any other verification required by the position before appointment;
- c) Determining whether the candidate has been dismissed previously for misconduct or poor performance by another municipality or employer, and, if so, the nature of that misconduct or poor performance; and
- d) Verifying any other additional personal credentials as may be required by the nature of the job such as criminal records, identification document, security clearance and, where necessary, credit checks.
- e) Consenting with the applicant to verify and disclose the required information.
- f) Failure to submit applicable documents may result in the disqualification of the candidate from the recruitment process.

8.6.2. A written report on the outcome of the reference checks and personal credential verification must be compiled and considered before the appointment is concluded.

8.6.3. Despite sub-regulation (1)(a) of the COGTA regulation, a candidate who does not have a previous employment record may not be disqualified as a candidate for appointment to an advertised post, positions from T02 – T04.

8.6.4. The qualifications from Matric/Grade 12 (NQF level 4) and post-matric should be verified.

8.6.5. Previous detention, arrest, conviction, or dismissal may not constitute a reason for the immediate refusal of an application, except when the reason for the conviction or the dismissal makes the applicant unsuitable for the position in terms of its inherent job requirements.

8.6.6. Integrity assessments for foreign nationals will include vetting from section 6(i) of the Employment Services Act, the South African Government Statutory Requirements, the Security Vetting Policy, and the Security of Information Policy.

8.7. APPOINTMENT OF SUPPORT STAFF TO OFFICES OF THE PUBLIC OFFICE BEARERS

- 8.7.1. A person appointed to a post on the approved staff establishment in order to support the office of a public office bearer must either be:
- a) seconded from a post on that CoE's approved staff establishment or another municipality's staff establishment; or
 - b) appointed on a fixed-term contract of employment linked to the term of office of the public bearer
- 8.7.2. The duration of the secondment or fixed term employment contract contemplated in clause 8.7.1 above may not be longer than 30 days after the public office bearer vacates the office.

8.8. APPOINTMENTS

- 8.8.1. A person shall be at least 18, but not yet 65 years of age before he/she may be appointed.
- 8.8.2. No person may be employed in CoE unless the post to which he or she is appointed, is provided for in the staff establishment of CoE.
- 8.8.3. All persons appointed in the CoE should accept appointment by means of an employment contract prior to the commencement of duties within the prescribed time frame as determined by CoE.
- 8.8.4. A candidate appointment shall be subject to proof of good health, if it is an inherent requirement of the job, at the council's expense, by a registered medical practitioner assigned by the council in accordance with relevant legislation.
- 8.8.5. A person shall be appointed in the council's service if he/ she:
- a) Is the most suitable candidate according to the panel members.
 - b) Qualifies in terms of the factors listed in subsection 8.3.14.
 - c) An appointment may only take effect after the municipal manager or his or her delegate has approved the appointment in writing.
- 8.8.6. A candidate shall be appointed on the commencing notch of the salary scale unless otherwise decided by the City Manager and/or HOD: HR.
- 8.8.7. When a candidate is appointed in a higher position (promoted) to a higher salary level than his/her current level, his/her salary shall be adjusted to at least one notch above his current salary in the new salary level. For

Internal employees, the date on which he is promoted shall be deemed to be the new incremental date.

8.8.8. Internal employees appointed in a position that is on a horizontal level of his/her position prior to the said appointment, will retain his/her salary notch and incremental date.

8.8.9. The Human Resources department effects all administration regarding all appointments.

8.8.10. If a conflict of interest becomes apparent after the appointment, the municipal manager or his or her delegate must report the matter to the relevant delegated authority which must take remedial action, and where necessary, take disciplinary action.

9. APPOINTMENT OF PART TIME, CONTRACT, TEMPORARY AND FIXED TERM EMPLOYEES

9.1. Heads of Departments may request the appointment of temporary employees in consultation with the Head of Department: HR or delegated official.

9.2. A part-time contract employee may be employed where a permanent employee is on maternity leave, sabbatical leave or in instances where a permanent employee is/will be absent from work for a prolonged period due to for example medical boarding or an illness.

9.3. A fixed term appointment will be effected in terms of special projects, which have starting and end dates.

9.4. All the above appointments will be effected on condition that the Department: Finance verifies and confirms that funding is available.

9.5. Arrangements regarding the payment of certain optional benefits like housing subsidy must be subject to proof of bonded homeownership as per the same rules applicable to permanent employees.

9.6. Travelling allowances, if applicable, will be paid in accordance with the ETAS Policy.

10. EMPLOYMENT OF FOREIGN NATIONALS

10.1. The Immigration Act 13 of 2002 outlines three categories of residence status. These are:

- South African citizens;

- Non-South African citizens, comprising of persons who are permanently resident in South Africa; and
 - Non-South African citizens who are temporarily resident in the Republic.
- 10.2. Employees (including external applicants) with permanent resident status are entitled, by law, to compete equitably with South Africans in the employment market.
 - 10.3. Foreign nationals naturalized after 27 April 1994 cannot be counted for Employment Equity (EE) purposes.
 - 10.4. Any form of discrimination against foreign nationals with permanent resident status, based on their status as foreign nationals, is illegal and therefore prohibited within the CoE.
 - 10.5. Employees with temporary resident status will only be considered for opportunities where the CoE is unable to fill the position with a South African citizen or permanent resident, or where the position requires exceptional skills not available in the country and cannot be trained within a reasonable time period.
 - 10.6. The onus to the above lies with the CoE to produce proof. This is a dual responsibility lying with the line manager and HR practitioner of the position concerned.
 - 10.7. South African citizens and foreign nationals with permanent resident status (equitably and in no order of preference) will therefore enjoy preference over foreigners with temporary resident status. No foreign national with temporary resident status should be appointed at the expense of qualifying local talent.
 - 10.8. Where the appointment of foreign nationals with temporary resident status is imminent, such persons should preferably be employed on a fixed-term contract linked to the period of the validity of the work permit, but never as independent contractors. The duties must remain as initially contracted and as stipulated in the work permit as submitted to the Department of Home Affairs from time to time.
 - 10.9. Employment of a foreign national without a valid work permit constitutes non-compliance with the law and is therefore deemed a criminal offence in terms of the Immigration Act.
 - 10.10 Foreign recruitment must take account of Central Government guideline of foreign recruitment, immigration, and work and residence permits. Section 38 of the Immigration Act, 2002 (Act13 of 2002).

11. PROBATION

- 11.1. The appointment of a person as contemplated in these Regulations must be affected on a minimum probationary period of three months and a maximum probationary period of 12 months.
- 11.2. The probationary period must be determined on the basis of the job requirements and the minimum period required to establish whether performance is satisfactory or not. The period of probation excludes the number of days for which leave has been taken by the staff member during the period of probation or any extension thereof. The municipal manager or his or her delegate must:
 - a) Inform the staff member within the first two weeks of employment of that member's performance requirements;
 - b) Ensure that the staff member completes the municipality's induction program and;
 - c) Assess the staff member's performance and provide the staff member with feedback on a quarterly basis on that member's performance requirements.
- 11.3. If a staff member's performance is not satisfactory, the municipal manager or his delegate must advise the staff member of any aspects that the staff member is failing to meet.
- 11.4. If the Municipal Manager or his or her delegate believes that the staff member's conduct during the probationary period is unsatisfactory he/she can dismiss the staff member, provided that:
 - a) The staff member shall first be given a reasonable period of time for assessment, training, guidance or counselling and;
 - b) The staff member's performance continues to be unsatisfactory after a reasonable period has been given to the staff member to improve his or her performance.
- 11.5. Despite 11.4 above, the municipal manager or his or her delegate may extend the probationary period by a period not exceeding six months, in order to afford the municipality an opportunity to further assess the staff member's performance.
 - a) Within one month after the completion of the probationary period, the Municipal Manager or his or her delegate must confirm the appointment if:
 - the staff member's performance during the probationary period was satisfactory; and
 - The staff member complied with all the conditions of the probationary appointment

12. PROMOTION

- 12.1. A staff member who is appointed in accordance with this policy to a post within the CoE that is higher in salary level or job grade than the one that he or she previously occupied within CoE, is deemed to be promoted to that post.
- 12.2. A staff member who is promoted does not forfeit his or her years of service and the benefits which accrued from those years of service.

13. TRANSFER OF STAFF

- 13.1. A municipality may transfer any staff member in the service of that municipality to any equivalent post in the municipality or, subject to section 197 of the Labour Relations Act, to an equivalent post in another municipality.
- 13.2. A staff member may only be transferred-
 - a) If the staff member requests or consents, in writing, to the transfer; or
 - b) In the absence of consent, if the transfer is fair taking into consideration-
 - i. The operational requirements of the affected institutions, including whether the transfer of the staff member would address such requirements;
 - ii. Written representations from the staff member prior to the proposed transfer; and
 - c) The extent to which the interests and circumstances of the staff member may be fairly accommodated.
- 13.3. The salary and other conditions of service of a staff member may not be adversely affected by a transfer under this regulation without the written consent of that staff member.
- 13.4. A staff member contemplated in this regulation may not be demoted, promoted or transferred to a position at a level which is lower or higher than the staff member's current post level.

14. ACTING APPOINTMENT

- 14.1. An acting appointment may be made to a funded post in order to ensure that the disruption of services is minimised.
- 14.2. Unless indicated otherwise in the appointment to the acting post, a staff member of a municipality who is acting in a higher post in the same municipality must

continue to perform the duties of the post that the staff member ordinarily occupies during the acting period.

- 14.3. A person acting in a higher post has no right or expectation to be appointed to that post, except as otherwise provided in these Regulations.
- 14.4. A staff member may only act in a post that is equivalent to or one grade higher than the post that the staff member ordinarily occupies.
- 14.5. The appointment to act in a post must be-
 - a) with the consent of the staff member;
 - b) in writing; and
 - c) authorized by the municipal manager or the person to whom this function is delegated.
- 14.6. The staff member appointed to act in a post must have the requisite competencies to be able to perform the duties associated with the post.
- 14.7. In selecting a person to act in a post, the following must be considered:
 - a) The relevant requirements of the post and that person's performance;
 - b) The municipality's developmental needs; and
 - c) The municipality's employment equity policy and plan.
- 14.8. A person may only be appointed in an acting position for a period not exceeding three months.
- 14.9. Despite sub-regulation (8), the municipal manager, or his or her delegate, may extend the period in sub-regulation (8) for a further period of three months, if there is a justifiable reason to do so.
- 14.10. Any further extensions made under sub-regulation (9) shall not exceed a period of nine consecutive months, where after the post must be advertised and filled on a competitive basis.
- 14.11. The performance of a staff member appointed to act in a post must be assessed in terms of these Regulations.

15. SECONDMENTS OF STAFF TO ANOTHER MUNICIPALITY

Please refer to the COGTA Gazette, 2021 Municipal Municipal Staff Regulation, page 22.

16. RECOURSE ON APPLICATION

- 16.1. A written objection with motivation shall be submitted within five (5) days from the date of short-listing / interviews to the recruitment practitioner responsible, to submit to the ER Division.

- 16.2. The ER Division shall attend to the objection hearing within 7 (seven) days of receipt of the objection from the Recruitment Practitioner.
- 16.3. The lodging of an objection shall put on hold the continuation of any processes until the issuing of the final outcome by the chairperson.
- 16.4. If the candidate is not satisfied with the final outcome of the objection hearing, the applicant may refer the matter to the South African Local Government Bargaining Council (SALGBC).
- 16.5. In the event that a grievance arises with regard to the application and interpretation of this policy, the employee can refer the matter to SALGBC.

17. MONITORING

The process for monitoring the implementation and usage of the policies, procedures, standard operating procedures, and other related governance documentation is the responsibility of the various process owners and end users.

- 17.1. All managers must take all necessary steps to ensure that all employees who report to them are aware of and comply with this policy.
- 17.2. Any conduct which violates this policy would be considered to be *ultra vires* (outside the scope) of the employee's authority and therefore expose him or her to possible disciplinary action.
- 17.3. No deviation to this policy and procedure requirements is permitted. Any possible breaches of this policy and procedure would be monitored by Human Resources and reported to the City Manager or his or her delegates for appropriate action.
- 17.4. This policy will be reviewed every five-year interval in line with the political tenure or as and when required. Should a critical necessity arise that an amendment should be done, the item must be submitted to LLF for consideration.

18. PRECEDING POLICIES RESCINDED

The previous policies in respect of this subject are **WITHDRAWN** and **REPLACED** with this new policy.