CSC: Disability Disclosure Guideline

Corporate Services Centre
Chief Directorate: People Management Practices

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**Appendix I:** CSC Disclosure Form  
**Appendix II:** Register of assistive devices procured for PWD
1. **PREAMBLE**

The Employment Equity Act, No. 55 of 1998, constitutes one of the key legislative and policy interventions within the ethos of South Africa’s new constitution, giving effect to the removal of policies that have resulted in inequalities in the country. Specific emphasis is placed on ensuring equity, the right to equal protection and benefit of the law, inter alia, to people with disabilities.

2. **INTRODUCTION**

2.1 Many barriers such as widespread ignorance, fear and stereotypes have caused people with disabilities to be unfairly discriminated against in society and in the workplace. For these reasons they are a designated group in terms of the Employment Equity Act, 1998.

2.2 People with disabilities have been excluded from the mainstream of society and experience difficulty in accessing fundamental rights. Legislation has in the past also contributed to the social and economic exclusion of people with disabilities.

2.3 Under our new democracy, the rights of the people with disabilities are now protected in the Constitution. Using the Constitution as a foundation, the South African government introduced the Employment Equity Act, 1998 to redress inequalities and discrimination in the workplace.

3. **DISCLOSING A DISABILITY**

3.1 There is no legal obligation for employees to disclose information about their disability, unless it is likely to affect their performance or ability to meet the inherent requirements of the job. This includes the ability to work safely and to ensure the safety of co-workers.

3.2 Disclosing your disability status is a voluntary process and no employee is obliged to declare his/her disability. The process of disclosure enables the Employer to provide effective support, and where necessary, reasonable accommodation and/or assistive devices. This assistance will enable the execution of job functions and will assist in creating a conducive work environment.

3.3 Every precaution will be taken to ensure that the information provided by employees, including medical certificates, is kept in the strictest confidence. Any individual who identifies
him/herself as disabled will not be subjected to any form of harassment or retaliation based on the status of his/her self-identification.

4. **MANDATE AND SUPPORTING LEGISLATION**

4.1 These processes and procedural guidelines draw its legal and general mandate from the following documents:

- Employment Equity Act, 1998, as amended
- Labour Relations Act, 1998, as amended
- Promotion of Equality and Prevention of Unfair Discrimination Act, 2000
- Occupational Health and Safety Act, 1993
- Compensation for Occupational Injuries and Diseases Amendment Act, 1997
- Promotion of Administrative Justice Act, 2000
- Public Finance Management Act (PFMA), 1999
- Treasury Regulations for Departments, Constitutional Institutions, and Public Entities, 2001
- Integrated Provincial Disability Strategy (IPDS), Western Cape, 2001
- Policy Statement on the Management of Employment, Development and Career Progression of People with Disabilities in the Western Cape Government
- Code of Good Practice on the Employment of People with Disabilities, 2002
- The Job ACCESS Strategic Framework on the Recruitment, Employment and Retention of Persons with Disabilities in the Public Service, 2009

5. **OBJECTIVES**

5.1 The objectives of this disclosure guideline are to:

5.1.1 Create a mechanism for employees to disclose their disability in a supportive, confidential and non-discriminatory environment.

5.1.2 To provide reasonable accommodation and/or assistive devices that would cater for the needs of employees with disabilities in the workplace.
6. SCOPE OF APPLICATION

6.1 These guidelines are applicable to current Western Cape Government (WCG) employees and new employees within the Corporate Services Centre, who wish to disclose their disabilities.

7. TERMINOLOGIES

7.1 Disability: In determining whether a person has a disability, the definition as contained in the Employment Equity Act (par 7.1.1) must be satisfied. Other definitions regarding a disability or People with disabilities elaborate on the original definition of the Employment Equity Act to give further clarity and/or explanations, such as the National Cabinet adopted definition (par 7.1.2) and the UN Convention on the Rights of Persons with Disabilities, to which South Africa is a signatory (par 7.1.3).

7.1.1 The Employment Equity Act defines disability as “people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment.” The focus is on the effect of a disability on the person in relation to the working environment and not on the diagnosis or the impairment.

7.1.2 The definition of disability, as approved by National Cabinet (in 2006) identifies it as “the loss or elimination of opportunities to take part in the life of the community equitable with others that is encountered by persons having physical, sensory, psychological, developmental, learning, neurological, or other impairments, which may be permanent, temporary, or periodic in nature, thereby causing activity limitations and participation restriction with the mainstream society”.

7.1.3 A definition of the UN Convention states that a disability is caused by an accident or trauma or genetics or disease and it is that which limits/restricts a person’s mobility, hearing, vision, speech and intellectual or emotional functioning.

7.2 People with Disabilities: People with disabilities are deemed to have a long term or recurring impairment which substantially limits their prospect of entry into or advancement in employment. Employees are considered as people with disabilities when all the criteria in the definition as indicated in the Employment Equity Act (par 7.1.1), is satisfied.

7.3 Assistive devices and technologies: Any device designed, made or adapted to help a person perform a particular task can be regarded as an assistive device and technologies.
Products may be specifically produced or generally available for people with disability. (World Disability Report, 2011)

7.4 **Barriers**: Obstacles and impediments that prevent people from free movement, decision-making, association and participation. They may be environmental (physical) or created by attitudes (perceptions) and systems (technology) that limits functioning and creates disability.

7.5 **Disclosure of disability**: This is a voluntary notification by an employee to an employer that the employee has a disability. Disclosure is sometimes difficult for employees who have a non-visible disability as result of negative perceptions. These disabilities may range from a minor sensory impairment to major neurological disabilities, including learning disabilities such as dyslexia as well as psychological disabilities, such as anxiety disorders.

7.6 **Reasonable Accommodation**: This refers to necessary and appropriate modification and/or adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure people with disabilities the opportunities and enjoyment on an equal basis with others.

8. **NATURE AND TYPE OF DISABILITIES**

8.1 The nature and type of disability includes the categories listed below although it is not an exhaustive list. These categories are also reflected on the Corporate Services Centre (CSC) Disability Disclosure Form (Appendix I).

- **Physical**
  - Missing extremities: leg/s, arm/s, feet, hands
  - Paralysis: partial/total loss of movement in a part/whole of the body
  - Mobility impairment: palsy and cerebral palsy, multiple sclerosis, muscular dystrophy
  - Spinal abnormalities: spina bifida, scoliosis

- **Sensory**
  - Completely blind
  - Limited vision in one/both eyes
  - Inability to read ordinary size print, not correctable by spectacles
  - Sensitive to light
  - Colour blind
  - Total deafness in one/both ears with or without understandable speech
- Limited hearing ability in one/both ears

- **Psychological**
  - Anxiety disorders e.g.: post-traumatic stress disorder, obsessive-compulsive disorder, panic disorder, social anxiety disorder, and specific phobias
  - Mood disorders e.g.: depression, mania, and bipolar disorder
  - Psychotic disorders e.g.: Schizophrenia

- **Developmental**
  - Down's Syndrome

- **Learning**
  - Attention Deficit/Hyperactivity Disorder
  - Dyslexia
  - Dyscalculia
  - Auditory Processing Disorder

- **Neurological**
  - Brain injury
  - Neurosarcoidosis
  - Apraxia

8.2 If a disability does not fall into any of the above-mentioned categories, it may be classified as “Other” and the nature and type of the disability must be recorded as such on the disclosure form e.g.: Albinism or Epilepsy.

8.3 In general, treatment for diseases such as Diabetes/Hypertension is simple, readily available, and effective if the patient complies with the doctor's orders. These kinds of illnesses are therefore not regarded as a disability, unless the side effects of uncontrolled Diabetes/Hypertension, etc. result in a disability such as blindness and amputations.

9. **PROCEDURE TO DISCLOSE A DISABILITY**

9.1 A new employee who has indicated a disability on the Application for Employment Form (Z83) or the Declaration by Employee Form (EEA 1) which is included in the appointment bundle of documents, must complete the Disability Disclosure form and submit medical proof of the disability, prior or with the assumption of duty to the CSC: Directorate Recruitment and
Selection. The Disability Disclosure form must be completed by the new employee and co-signed by the Senior Manager (SMS). The immediate supervisor (line manager) may assist the new employee in completing the form, where required. The completed and signed Disability Disclosure form (including supporting medical documentation) must be submitted to the CSC: Directorate: Recruitment and Selection (Department of the Premier, 4 Dorp Street, Cape Town) via the Departmental Client Relations Unit.

9.2 Existing employees, who intent to disclose their disability, can obtain a Disability Disclosure form from the Intranet Blue Pages, CSC Helpdesk, CSC: Directorate: Policy & Planning or the Department’s Client Relations Unit. The Disability Disclosure form must be completed by the employee and signed-off by the Senior Manager (SMS). The completed and signed Disability Disclosure form (including supporting medical documentation) must be submitted to the CSC: Directorate: Policy and Planning, who deals with employment equity matters (Department of the Premier, 4 Dorp Street, Cape Town) via the Departmental Client Relations Unit.

9.3 All Disability Disclosure forms must be accompanied by medical evidence/documentation indicating and confirming the disability.

9.4 If reasonable accommodation or assistive devices are required, the application will be referred to the CSC: Directorate: Organisational Behaviour. This directorate will assess the functional requirements of the employees in relation to the job description and environmental adaptations. The procurement of any assistive devices and/or adaptations to the work environment is the responsibility of the respective Department and Senior Manager (SMS) where the employee resides.

9.5 The employee and the department will be officially notified by the CSC: Directorate Policy & Planning once the details have been captured on PERSAL and the outcome of the functional assessment, where required, has become available.

10. PROVISION OF REASONABLE ACCOMMODATION AND/OR ASSISTIVE DEVICES

10.1 Reasonable accommodation and/or assistive devices should ensure that all employees are able to fully participate in all employer activities in the workplace, without prejudice and discrimination.
10.2 The employer is only obliged to provide reasonable accommodation and/or assistive devices when an employee voluntarily discloses a disability, and indicates a need for reasonable accommodation.

10.3 The procurement of the assistive device/adaptation to the work environment is the responsibility of the Line Manager within the respective department.

10.4 The Code of Good Practice on the Employment of People with Disabilities states that if reasonable accommodation for a qualifying applicant or an employee with a disability would impose unjustifiable hardship on the performance of the department, then the department need not accommodate such a person. Within the context of reasonable accommodation and/or assistive devices procured by employers when employing persons with disability, unjustifiable hardship is considered to be, in terms of paragraph 6.12 of the Code, an “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”. However, the Technical Assistance Guidelines on the Employment of People with Disabilities (Chapter 6 par.13) strongly asserts that the request for reasonable accommodation and/or assistive devices must be objectively explored before concluding that it poses “unjustifiable hardship” on the respective department.

10.5 The type of reasonable accommodation and/or assistive devices provided by the employer is dependent on the inherent requirements of the job, the physical and communication barriers that exist in that work area and the employee’s actual disability.

10.6 Reasonable accommodation measures are inclusive of:

- Assistive devices and technology to overcome communication barriers.
- Work space/accommodation provided for a person who renders personal assistance or for guide dogs.
- Adaptations to the physical environment and furniture to make the work environment more conducive
- Re-organisation of the workplace and/or duties of the employee to reduce stress
- Sign Language Interpreters to assist in meetings, workshops and interviews etc.
- Safety related communications systems and equipment to be used for evacuations.

10.7 Departments who need adaptions to the physical environment for People with Disabilities (e.g.: wider door frames) and furniture (e.g.: raised desks to accommodate a wheelchair) may
directly contact the Department of Transport and Public Works, who is responsible for these adaptations.

10.8 An employee who has been unreasonably and unfairly refused reasonable accommodation may institute grievance proceedings in terms of the existing grievance procedures in the public service.

11. **PROCUREMENT AND TRANSFER/DISPOSAL OF ASSISTIVE DEVICES**

11.1 All procured and issued assistive devices must be registered according to the relevant prescripts for accounting purposes, namely Public Finance Management Act and Treasury Regulations.

11.2 All assistive devises procured by the employer remains the property of the state and will form part of asset management procedures. When an employee is transferred to another department, the assistive devices should be treated like any other departmental asset and the same supply chain processes and procedures should be followed by the Line Manager and the employee.

11.3 The supply chain unit within each department should keep record of all assistive devices that have been procured during each financial year. Appendix II can be utilised for this purpose. The Directorate: Policy and Planning (within the Department of the Premier) will maintain a database and obtain the required information regarding the cost and type of assistive devices procured by departments for reporting purposes to the DPSA. Departments must inform the CSC when assistive devices are procured and must indicate the expense incurred.

12. **MAINTENANCE OF ASSISTIVE DEVICES**

12.1 Employees with disabilities shall be personally liable for the repairs and maintenance of their personal Assistive Devices. The Department is responsible for the repairs and maintenance of work-related assistive devices. Where required, employees with disabilities can motivate for the maintenance of the assistive devices through their Line Manager and relevant SMS member. Should this be approved, it should be done in lieu of the PFMA/Financial Delegations.

12.2 The employer shall be responsible for the routine maintenance and repairs of work-related Assistive Device as well as the renewal of license fees (e.g.: software such as JAWS).
12.3 Special leave with full pay may be granted to a person with a disability if s/he must attend a recognised programme where support is given to better cope with the disability and/or technology, which will enhance their performance (Special Leave Policy – par 17.2).

12.4 When an employee has applied for special leave it must be accompanied by proof of such events or occurrences. This will support the principles of reasonableness, fairness and the operational requirements of the employer (Special Leave Policy - par 17.5).

13. **BUDGETING AND RESOURCE ALLOCATION**

13.1 Departments are required to budget for reasonable accommodation and other measures for applicants and / or employees with disabilities, inclusive of the recruitment, appointment and retention processes. Departments need to allocate adequate resources in the MTEF for provision of an enabling environment for employees with disabilities.

13.2 Costing of reasonable accommodation measures is subject to, among others,

13.2.1 Individual needs of the employee with a disability;
13.2.2 Existing physical, attitudinal and communication barriers in the working environment
13.2.3 Inherent job requirements of the post;
13.2.4 Price fluctuations, especially in a non-competitive environment where procurement of a large number of devices is subject to sole-providers.

14. **AWARENESS/ SENSITISATION SESSIONS**

14.1 The Directorate: Organisational Behaviour in the Department of the Premier is responsible for the CSC transversal health and wellness programme provided by a Service provider. These services include support and information to employees and managers.

14.2 Via the Directorate: Organisational Behaviour, line managers may utilise the services of the Service provider to facilitate disability awareness/sensitisation sessions to the peers and colleagues of a person with a disability. These sessions would assist in empowering peers about the potential that people with disabilities have and also share information regarding the challenges and barriers relating to the integration between the person with the disability and their work environment.
15. CONCLUSION

15.1 Whilst the Western Cape Government recognizes that the disclosure of a disability is a very personal and confidential matter, employees are encouraged to disclose their disability. This will allow the Western Cape Government to act on the data available; not only for Employment Equity reporting purposes, but to identify areas where people with disabilities are under-represented, to track the career progression of people with disabilities as well as to look at necessary support for such individuals.