



Councillor A Lovemore
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The Speaker of Council
Nelson Mandela Bay

Copy: (Acting) City Manager

ATTENTION: Councillor EUGENE JOHNSON

Dear Ma'am

MOTION re UTILISING MUNICIPAL DEMOGRAPHICS TO INFORM THE EMPLOYMENT EQUITY PLAN

This motion is submitted in compliance with the requirements of Rule 25 of Council's Rules of Order. The motion is intended for tabling at the next ordinary Council meeting.

Noting that:

1. The Nelson Mandela Bay Municipality recognizes its responsibility to comply with all applicable legislation, including the Employment Equity Act 55 of 1998.
2. The Democratic Alliance's preference would be to be free of any race-based legislation; however, as long as the Employment Equity Act exists and requires an annual plan to be submitted, the Democratic Alliance (DA) is determined that the plan should represent all of its people, and thus to be based on municipal demographics.
3. The DA contends that the latter Act and its regulations give rise to unfair and unjust implementation and outcomes. In particular, the DA takes issue with the requirement that either national or regional (or provincial) demographics be applied when developing an employment equity plan.
4. The preamble of the Employment Equity Act includes the intention to "achieve a diverse workforce broadly representative of our people"; for any municipality it is fair to assume that "our people" would refer to the people living within the boundary of the municipality.
5. In the Commission for Employment Equity report for the year 2024/25, the following statistics are supplied with reference to the economically active population of the Eastern Cape:

Table 2: Provincial EAP by Population and Gender Groups* (*Source: Statistics South Africa. (QLFS. Quarter 3 2024)

PROVINCE	GENDER	African	Coloured	Indian	White	TOTAL
Eastern Cape	Male	43.3%	5.7%	0.8%	2.8%	52.6%
	Female	39.8%	4.9%	0.3%	2.4%	47.4%
	TOTAL	83.1%	10.6%	1.1%	5.2%	100.0%

6. Unfortunately, no department releases statistics reflecting the economically active population of municipalities. These statistics must surely exist, but, in the absence of a recognised source, the demographic breakdown provided by Census 2022 indicates the following totals for each racial grouping. The table shows the comparison with Census 2022 figures for the Eastern Cape:

POPULATION BREAKDOWN (Census 2022)	Nelson Mandela Bay	Eastern Cape
Black African	62.7%	85.7%
Coloured	19.2%	7.6%
White	15.7%	5.6%
Asian	1.2%	0.5%

7. It is fully acknowledged that the comparison between the two sets of figures will not yield results that are accurate to the nth degree; it cannot be denied, however, that the comparison will allow for an idea to be gained of the difference between the population demographics.
8. The comparison shows the following:
- The percentage of Black African people in the Metro is 23.0% LOWER than in the province;
 - The percentage of Coloured people in the Metro is 11.6% HIGHER than in the province;
 - The percentage of White people in the Metro is 10.1% HIGHER than in the province.
 - The percentage of Indian people in the Metro is approximately the SAME as in the province.
9. According to the 2025 -2030 Employment Equity Plan prepared for the municipality, the workforce currently comprises:
- 74.0% Black African people
 - 16.7% Coloured people
 - 1.4% Indian people
 - 8.0% White people
10. A 5-year Employment Equity plan would be very different depending on which demographics were used:
- **Black African**, based on **provincial targets**, should increase from 74.0% to 83.1%
 - **Black African**, based on **municipal targets**, should be considered achieved.
 - **Coloured**, based on **provincial targets**, should decrease from 16.7% to 10.6%
 - **Coloured**, based on **municipal targets**, should increase from 16.7% to approx. 19.2%
 - **Indian**, based on provincial targets, will be **considered achieved**.
 - **Indian**, based on municipal targets, will also be **considered achieved**.
 - **White**, based on **provincial targets**, should decrease from 8.0% to 5.2%
 - **White**, based on **municipal targets**, should increase from 8.0% to approx. 15.7%
11. The anomalies are conspicuous, and the unfairness is plain to see, despite the comparison being with overall population figures and not directly with the economically active population.
12. The Democratic Alliance maintains that the impact of the municipality's Coloured and White populations, particularly, is unfair and unjust.
13. The Democratic Alliance contends further that the injustice is unnecessary, and can be corrected by a simple change to the Employment Equity Act (as amended) and its regulations: the requirement that either the national or the provincial Economically Active Population must be utilized to guide the targets set in an Employment Equity plan must be replaced by the requirement in place prior to 2014, ie that municipal demographics be utilized to guide the target-setting.
14. A local or district municipality represents and serves its population, not that of the entire province or nation. It makes sense that, while the Employment Equity Act remains in place and requires racial targets to be set for the workforce, that workforce should represent the people of the municipality concerned.

15. Importantly, the preamble to the Employment Equity Act includes the aspiration “to eliminate unfair discrimination in the workplace”. The Democratic Alliance contends that utilizing any demographic other than municipal will have precisely the opposite outcome. It will be unfair and unjust.
16. It is not possible for one sphere of government to bring civil action against another to force any particular action in the case of a dispute about any matter. It is, instead, necessary to invoke the provisions of the Intergovernmental Relations Framework Act 13 of 2005 to declare a dispute between the municipality and the Ministry and Department of Employment and Labour (the custodian department for Employment Equity legislation).
17. Section 42 of the Intergovernmental Relations Framework Act requires that, “once a formal intergovernmental dispute has been declared, the parties to the dispute must promptly convene a meeting between themselves” to achieve various objectives. In this case, the objective would be to modify the Employment Equity Act as amended, and its regulations, to allow municipal demographics to be utilized to set targets for the purposes of a municipal Employment Equity plan.

I thus move that:

1. Council resolves that the Acting City Manager and the Executive Mayor invoke the provisions of the Intergovernmental Relations Framework Act to commence discussions with the administrative and political leadership of the Department of Employment and Labour re the alteration of the requirement to use national or provincial demographics to inform an Employment Equity plan and to allow the use of municipal demographics;
2. These discussions and negotiations continue until Council’s desired outcome is achieved;
3. Should an *impasse* be reached, an intergovernmental dispute be declared; and
4. If it becomes necessary, the municipality launch civil action in an appropriate court to have the provisions of the Employment Equity Act, as amended, and its regulations, altered to allow the use of municipal demographics to inform targets for Employment Equity plans in the future.

PROPOSER:



COUNCILLOR ANNETTE LOVEMORE

SECONDER:



COUNCILLOR ONDELA KEPE