

## EMPLOYMENT OF PEOPLE WITH DISABILITIES



*“ The more I have resources at my disposal, the greater my freedom of choice ”*

Chapter

9

## CHAPTER 9 Employment of people with disabilities

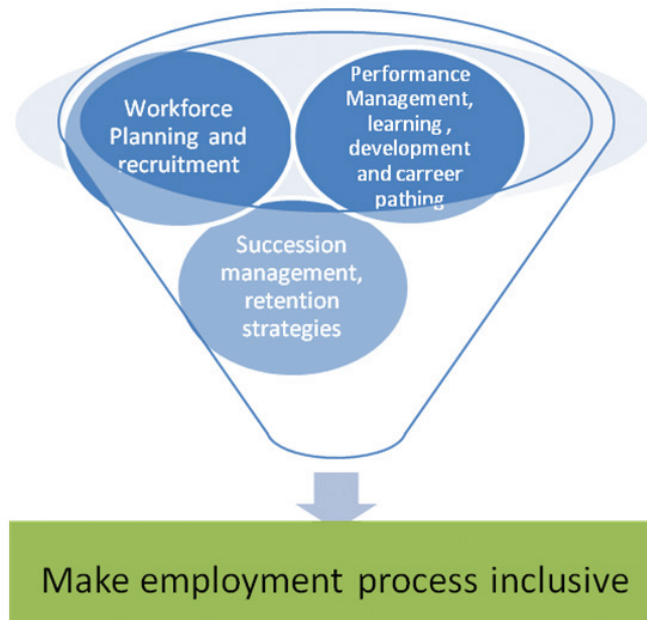
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**Diversity**  
in the workplace **creates**  
a culture of **tolerance**

## CHAPTER 9

### 9.1 Introduction

Employing people with disabilities requires creativity in the employment process. The mining companies should include disability policy provisions in all aspects of the employment process.



Employers should ensure that:

- The recruitment process complies with the law
- Disability considerations are part of each employment process
- Generally the same internal policies and strategies should contain measures that address the needs of people with disabilities. Separate policies for people with disabilities are not necessary

## 9.2 Recruitment and Selection

### 9.2.1 Recruitment

- Recruitment and selection of people with disabilities should be in line with normal recruitment and selection policies.
- Recruitment should also include internship positions.
- Organisations that represent the interest of people with disabilities should be utilised for recruitment purposes.
- Advertisements should include sufficient detail about the essential functions and duties of the job so that potential applicants with disabilities can make an informed decision if they meet the inherent requirements of the job.
- In order to give people with disabilities a fair chance to compete for jobs, companies should send their job adverts to organisations that represent the interests of people with disabilities. Such bodies will then distribute the adverts to their members and/or affiliate organisations.

- Candidates should be encouraged to state in advance any particular arrangements they may require in order to attend interviews. The employer should thus be in a position to reasonably accommodate such candidates for an effective interview.
- Members of the interview panel should be given ongoing sensitisation and guidance on the interview and selection process of disabled persons to eliminate stereotypes and subjectivity against people with disabilities.
- The interviewer may not ask questions about the disability or illness even if disability is visible. Example: The person uses a wheelchair or guide dog, has a missing limb, or has volunteered information about a disability. (Questions about illness may reveal the existence of a disability.) The interviewer may not ask questions regarding the:

Nature or Severity. Examples:

- What is your disability? How did it occur?
- How severe is your condition?

Causing Circumstances or Conditions. Examples:

- Is your disability hereditary? Is it job-related?
- Have you ever been hospitalized? If so, for what?
- Have you had a major illness in the past year?

Prognosis or Explanation. Examples:

- Will the disability improve or worsen?
- Is there any health-related reason why you may not be able to perform certain job functions?
- Do you have any disability or impairment that may affect your performance in this position?

Need for Medical Treatment or Leave Usage. Examples:

- How many days were you absent from work due to illness last year?
- How much leave do you estimate using?

Other Disability-Related Factors. Examples:

- Have you ever been treated by a psychologist or psychiatrist? If so, for what condition?
- Have you ever been treated for any mental condition?
- Are you taking any prescribed drugs? If so, what?
- Have you ever been treated for drug addiction or alcoholism?
- Have you ever filed a worker's compensation claim?



Different but made of pure gold! Give me a chance to work



Disabled people come in all colours! We are not a homogenous group! Embrace our difference

- The recruitment process should be adjusted to take account of the special needs of job seekers with disabilities; the rationale for such adjustments should be communicated to disabled candidates and employees.
- The employer should ensure that in offering a job to person with disability any disability-related adjustments to the working environment or workstation is discussed and agreed to with the candidate.
- The employer should regularly review the effectiveness of recruitment and selection measures for people with disabilities and adopt appropriate remedial steps to ensure its effectiveness.
- When recruiting:
  - identify the inherent requirements and essential functions of the vacant position;
  - describe clearly the necessary skills and capabilities for the job;
  - set reasonable criteria for selection, preferably in writing, for job applicants for vacant positions.
- The inherent requirements of the job are the purposes for which the job exists. The essential functions and duties of the job are what are necessary to get the job done.
- Application forms should focus on identifying an applicant's ability to perform the essential functions of the job.
- The employer should not include functions that are not essential to performing the inherent requirements of the job because selection based on non-essential functions may exclude people with disabilities unfairly.
- On request, and if reasonably practicable, advertisements should be provided in a format appropriate to people with disabilities, such as large print, Braille, or audiotape.

### 9.2.2 Selection

- The employer should apply the same criteria to test the ability of disabled persons that are applied to other applicants, although it may be necessary to accommodate applicants who have disabilities.
- The purpose of the selection process is to assess whether or not an applicant meets the requirements for the post.
- The employer should not request information about actual or perceived disability from a previous employer or third party.
- The employer should review the selection criteria on a regular basis to ensure that inappropriate barriers to people with disabilities are removed.
- Selection interviews should be sensitive, objective and unbiased to people with disabilities. Interviewers must avoid assumptions about people with disabilities.
- If an applicant has disclosed a disability or has a self-evident disability, the employer, should focus on the applicant's qualifications for the work rather than any actual or presumed disability but may inquire and assess if the applicant would, but for the disability, be suitably qualified.

- Interviewers should ask all applicants to indicate how they would accomplish the inherent requirements of the job and perform its essential functions and if accommodation is required.



You may need to kneel, crouch or sit on a chair to have a conversation with a wheelchair user

### 9.3 Training and Career Advancement

- The employer should consult with disabled employees so as to advance their skills and experience.
- The employer should make available information on career development to disabled employees and take into account the specific needs of disabled persons in developing their career goals.
- When training is offered, the employer should ensure that the specific disability needs of people with disabilities are catered for.

### 9.4 Job Retention

The employer should ensure that when an employee acquires disability while in its employment the following process is followed to retain the skills and experience of such employee:

- Early intervention and referral to rehabilitation services.
- Work with competent authorities to assess the ability of an employee to continue with the same job or make some changes to the job profile or working environment.
- Exploring measures for gradual resumption of work.
- Keeping in touch with the employee and where practicable, encouraging early return to work. This may require vocational rehabilitation, transitional work programmes, and where appropriate, temporary or permanent flexible working time.

### 9.5 Termination of Employment

- If an employee becomes disabled, the employer should consult the employee to assess if the disability can be reasonably accommodated.
- If not, the employer should consult the employee to explore the possibility of alternative employment appropriate to the employee's capacity.
- If the employee is unable to be accommodated or there is not appropriate alternative employment, the employer may terminate the employment relationship.
- Subject to the preceding provision above, the employer should in consultation with such an employee facilitate arrangements for disability benefits



- The employer should provide full information of disability benefits to ensure that employees are fairly advised before they apply for the benefits available and before resigning from employment due to medical conditions.

## 9.6 Confidentiality and Disclosure of Status on Disability

- Although not compulsory, it is imperative that employees having a disability should disclose their status to their managers / the relevant person designated to handle such matter in order to enable the employer to reasonably accommodate them.
- A status disclosed shall be kept confidential unless the employee decides to go public with his/her status.
- A person with a disability may disclose their disability at any time, even if there is no immediate need for reasonable accommodation.
- If the disability is not self-evident the employer may require the employee to disclose sufficient information to confirm the disability or the accommodation needs.
- If on reasonable grounds the employer does not believe that the employee is disabled, or that the employee requires accommodation, it shall request the employee to be tested to determine the employee's ability or disability, at the expense of the employer.
- As information about disability may be technical, the manager or official concerned should ensure that a competent person interprets the information.
- Further information may be required based on its relevancy to a specific job and essential functions.
- Employee's disability shall only be disclosed if required for the health or safety of the disabled person.
- The disability status shall not be disclosed without the written consent of the employee concerned unless this is required by law.
- If accommodating the employee requires the co-operation of other employees, it may be necessary to reveal the fact of a person's disability if it is not otherwise obvious, to some of the person's colleagues, particularly a supervisor or manager.
- The employer, may, after consulting the person with a disability, advise relevant staff that the employee requires accommodation, without disclosing the nature of the disability, unless this is required for the health or safety of the person with the disability or other persons.
- The employer must protect the confidentiality of the information that has been disclosed and must take care to keep records of private information relating to the disability of applicants and employees confidential and separate from general personnel records.
- When the employer, no longer requires the information, it must be returned to the employee or be destroyed or returned anonymous.

## 9.7 Terms and Conditions of Employment

- The employer will not employ a disabled person on less favourable terms and conditions for reasons connected with the disability.
- Inclusive accommodation for disabled employees should be considered where necessary. In all other cases, staff with disabilities shall be subject to the same conditions of employment, disciplinary code and contractual obligations as other employees.
- No person may harass an employee on the ground of disability. Such harassment may include teasing, ridicule and offensive remarks.

## 9.8 Access to Information and Communication

The employer should make provision for the following:

- Equal opportunities for access to information for people who have communication disabilities.
- Information services and documents must be accessible for different groups of disabled persons.
- Appropriate assisting aids must be available for people who have visual impairments, e.g. Braille, tape services, large print, acoustic devices and other appropriate technologies.
- Appropriate technologies to have access to audio information for people who have auditory impairments.

Consideration will also be given to the following:

- Sign Language/Tactile Interpreters  
The employer is encouraged to provide sign language and tactile/ sign language interpreter services to facilitate communication between deaf people, deaf-blind persons and other employees and the needs of people with other communication disabilities.
- Social barriers  
The employer should eliminate prejudice, stereotypes and ignorance of disability and sensitive employee's negative attitudes and stereotypes that limit advancement of disabled persons. Inaccessible and unsupportive work environments should be attended to in order to assist disabled persons to gain advancement in their employment.

## 9.9 Reference Checks

- An HR practitioner or recruitment agency may NOT ask previous employers or other sources for information regarding the applicant's disability or illness.
- An employer may ask an applicant's previous employer for information regarding:
  - Job functions and tasks.
  - Quality and quantity of work.
  - Job Performance.



- Attendance record. A recruiter may not ask about an applicant's attendance as it relates to illness or disability. This applies even if the applicant volunteered the information or the hiring official knows that the applicant has a disability. (Example: The employer may ask a previous employer, "Could you comment on the applicant's attendance record while employed with you?")
  - Other job-related issues that do not relate to disability.
  - Accommodation made by that employer, if the applicant has a known disability and indicate the ability to do a job with reasonable accommodation.
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