



# ***DIVERSITY & INCLUSION POLICY***

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# 1 INTRODUCTION

MC High School recognises, values and promotes diversity. We believe in an inclusive, engaging and safe school environment, where fair treatment and respect for each person's dignity and individual identity is upheld by our school community. We are committed to eliminate all forms of Unfair Discrimination and/or exclusion.

As a young, but pre-eminent private high school in South Africa, affiliated to ISASA (Independent Schools Association of South Africa), we are driven by the pursuit of knowledge and quality education. MC High School is a parallel medium high school with a Christian ethos. The languages of teaching and learning are English and Afrikaans. MC High School serves the Midstream and neighbouring communities, which is a microcosm of a diverse society. It therefore has a unique institutional culture, based upon the values the school espouses, while simultaneously respecting and accommodating the diversity of its society and ensuring that the human rights and fundamental freedoms enshrined in the Constitution of the Republic of South Africa and the Bill of Rights are protected.

MC High School fully embraces ISASA's commitment to increase diversity and contribute in terms of establishing a society that is based on democratic values, social justice and fundamental human rights<sup>1</sup>. We will therefore commit to timeously address all allegations, practices and/or occurrences of Unfair Discrimination and/or unfair exclusion. We undertake to educate all members within the MC High School community on the aspects and incidences of unfair discrimination and unfair exclusion, whether direct or indirect, conscious, or unconscious, intended or unintended, to foster an understanding and awareness of the impact of their thoughts, words and actions. We subscribe to the dignified and fair treatment of everyone within our school community, whilst recognising the inequalities and hurt caused by our past.

This Diversity and Inclusion Policy shall be implemented to achieve these commitments and intents.

## 2 KEY CONCEPTS AND DEFINITIONS

- 2.1 Policy means this policy, entitled "*Diversity and Inclusion Policy*", adopted by MC High School and applicable to the College Community, as updated from time to time.
- 2.2 Human Diversity means the differences among groups and individuals based on but not limited to their race, gender, religion, culture, language, national origin, disability status, socio-economic status, age, ideology, sexual orientation, personality and life experience and recognising the uniqueness of individuals. This definition does not retract any of the listed grounds of the definition of unfair discrimination.
- 2.3 Unfair Discrimination means any act or omission, including a policy, rule, practice, condition, sport code, academic assessment, extra and co-curricular activity or situation which directly or indirectly (i) imposes burdens, obligations or disadvantages on; or (ii) withholds or limits benefits, opportunities or advantages from any person and/or excludes or prevents any person from participating in any opportunity or activity; or (iii) which offends or has the potential to offend any person and/or compromises any person's dignity, on one or more of the following grounds and/or in relation to one or more of the following aspects:

<sup>1</sup> ISASA Toolkit for Transformation and Diversity, 2013.

race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, pregnancy, family responsibility, marital status, HIV status, conscience, belief, political opinion, culture, language, birth, or on any other arbitrary ground, where discrimination based on any of these other arbitrary grounds does or could, without limitation:

- I. cause or perpetuate systemic disadvantage (being, for purposes this Policy, a condition in a system, practice, policy or rule, which in and of itself provides an advantage to one person over another or disadvantages one person over another); and/or
- II. undermine human dignity; and/or
- III. adversely affect the equal enjoyment of a person's human rights and freedoms in a serious manner; and/or
- IV. disregard, disrespect or undermine Human Diversity.

- 2.4 Harassment means any conduct which is unwanted, persistent, or serious and demeans, humiliates or creates a hostile or intimidating environment or is calculated to induce submission by actual or threatened adverse consequences by virtue of any of the grounds listed in the definition of unfair discrimination above.
- 2.5 College / Midstream College means, collectively, all the schools forming part of and located within the Midstream Estates development, namely MC High School, Midstream College Primary School and Midstream Ridge Primary School, including such further schools as may be developed within Midstream Estates in the future and individually any of these, as the context requires.
- 2.6 MC High School means Midstream College High School.
- 2.7 College Community means, for purposes of this Policy (i) learners, teachers, employees, parents, guardians and families of learners of Midstream College; (ii) service providers of and visitors to Midstream College; and (iii) the shareholders and directors of Midstream College and any other person involved in the governance structures of Midstream College.
- 2.8 MCCF means the Midstream College Consulting Forum to the Headmaster, established as an independent advisory forum to assist, guide and consult with the Headmaster on matters relating *inter alia* to Unfair Discrimination, diversity and inclusion.
- 2.9 Headmaster means, for purposes of this Policy, the Headmaster from time to time of MC High School. References in this Policy to "Head" or "Head of the College" shall refer to the Headmaster from time to time of each of the schools of the College.
- 2.10 Complainant means any member of the College Community who has lodged a complaint regarding an alleged violation of any one or more of the stipulations of this Policy according to the terms of this Policy.
- 2.11 Complainant's Representative means the parent or guardian of a learner or the fellow employee of a teacher or employee of Midstream College. It excludes formal legal representation in the resolution of complaints in terms of this Policy.



If a complainant would like to be represented by a person not listed above, it must be agreed to by the parties.

- 2.12 Alleged perpetrator means someone or a group of people against whom a complaint has been lodged regarding an alleged violation of any one or more of the stipulations of this Policy, according to this Policy.
- 2.13 Disciplinary Code means the Disciplinary Code adopted by the College which regulates, *inter alia*, the procedures and sanctions applicable in the event that disciplinary action is to be taken against any learner, teacher, employee, parent, guardian and the like relating to misconduct and/or in any other circumstances contemplated in the Disciplinary Code.

The Policy incorporates as an integral part of the principles of diversity and transformation embedded through this Policy, the key definitions and concepts adopted by ISASA in its "Guide to Effective School Transformation and Diversity Management", referenced in the ISASA "Transformation and Diversity Workshop", 2020, annexed hereto as Annexure B.

### 3 MISSION STATEMENT

We the community of MC High School:

- 3.1 recognise the fundamental rights and values contained and protected in the Bill of Rights in the Constitution of the Republic of South Africa;
- 3.2 recognise that these fundamental rights and values must be respected and upheld in the College Community and should not be viewed in isolation, but must be applied as an integral part of all our practices and policies;
- 3.3 believe in an engaging and safe school environment, where fair treatment and respect of each person's dignity and individual identity is upheld by all stakeholders in the College Community;
- 3.4 recognise, value and promote inclusion and diversity in all forms, (i) through an environment which respects and embraces Human Diversity and (ii) by ensuring that all policies, practices and rules in place at MSC High School protect and promote Human Diversity and prepare learners for a multicultural society;
- 3.5 strive to achieve a shared vision and commit to address and eliminate all forms of Unfair Discrimination and exclusion, particularly racism and promoting equal opportunity for and fair treatment of all MC High School learners;
- 3.6 adopt a zero tolerance approach to Unfair Discrimination and Hate Speech / Hate Crimes as set out in Annexure C.

### 4 AIM OF POLICY

The aim of this Policy is to:

- 4.1 recognise and protect the interests of all learners at MC High School as a primary objective and to provide a framework within which the safety and emotional well-being of all our learners are safeguarded;



- 4.2 develop and entrench an awareness of human rights among the College Community and promote a culture of tolerance, diversity, understanding, inclusivity, observance, respect and protection of these values;
- 4.3 actively create and promote fairness and inclusivity in a safe, healthy and respectful school environment conducive for quality learning and teaching where all can develop and serve to their fullest potential;
- 4.4 unify and not to divide, based upon the value of human lives and love, care and respect for people in everything we do, despite our differences;
- 4.5 commit to investigate any alleged violation of human rights, Unfair Discrimination and/or any practice or policy within MC High School which is or is perceived to be exclusionary and assist any person adversely affected thereby in order to secure redress;
- 4.6 serve as a guiding document to inform all MC High School policies, codes and practices towards the upholding of human rights, non-discrimination of any form, inclusivity and diversity and to align all such policies, codes (including but not limited to the Disciplinary Code) and practices to be consistent with the aims and objectives of this Policy.

## 5 SCOPE OF POLICY

Although adopted as a policy of MC High School, it is intended that this Policy shall apply to all members of the College Community.

## 6 POLICY GUIDELINES AND GOVERNANCE

### 6.1 LODGING OF COMPLAINTS

- 6.1.1 Any member of the College Community may lodge a complaint regarding an alleged violation of any one or more stipulations of this Policy, including but not limited to alleged Unfair Discrimination, Harassment or bullying. Such complaint should be lodged as soon as possible after the incident occurred. In order to ensure that the process of investigating, addressing and resolving complaints can be conducted with fairness, integrity and without compromise, Complainants are encouraged to lodge complaints without delay, preferably within 7 business days of the alleged incident.
- 6.1.2 Complainants (or the Complainants' Representative) may lodge a complaint using a channel with which they are most comfortable within the school. These channels include, but are not limited to:
  - web application adopted for this purpose;
  - *#wehearyou* electronic platform created specifically for learner complaints;
  - a member of the College's pastoral care system;
  - a Midstream College staff member (e.g. teacher, grade head, school management member);
  - a school prefect;
  - a Midstream College council member;
  - the Bondev Directors;
  - a member of the MCCF;
  - complaints and/or issues raised during the Learner Survey and/or other initiatives conducted and/or undertaken by MC High School from time to time to obtain the views and opinions of learners in respect of diversity and inclusion at the College.

The objective of this Policy is to resolve complaints as between Midstream College and the Complainant. Complainants are therefore advised to use the platforms specified above and/or otherwise provided by the College for purposes of lodging complaints and encouraged not to make use of social media platforms such as Twitter, Facebook, Instagram and the like to raise complaints. Complaints that are raised through these platforms cannot reasonably and fairly be adjudicated in terms of this Policy.

6.1.3 The person receiving the complaint must forthwith and in any event within 48 hours of receiving the complaint refer it to the Headmaster or a member of the School Management Team. The Headmaster shall address the complaint as deemed necessary and in conjunction with the School Management Team. The Headmaster shall refer a complaint to the DI Committee only, if required or necessary. A reported incident shall be processed in the same manner.

6.1.4 All complaints lodged will be treated confidentially and with the necessary discretion and sensitivity.

## **6.2 COMPOSITION OF THE DIVERSITY & INCLUSION COMMITTEE (“DI COMMITTEE”)**

6.2.1 The DI Committee will be constituted exclusively to deal with complaints received in terms of this Policy.

6.2.2 The DI Committee comprises the following people:

- an independent chairperson, to be appointed by the College, who shall be an appropriately qualified person with sufficient experience to chair a committee in the nature of the DI Committee and who shall not be a related party to the Complainant and/or the Alleged perpetrator;
- the Head of the College to which the complaint relates, as the case may be, or his/her delegated representative;
- the Diversity portfolio holder of the relevant College to which the complaint relates;
- the Head- or a Deputy prefect of MSC High School (if the Alleged perpetrator is a learner of MC High School) and on special invitation from the DI Committee. The Head- or Deputy prefect shall not be a standing member of the DI Committee and shall not be required to vote on any decisions to be taken by the DI Committee;
- a representative of the Board of the relevant College involved in the complaint, other than the Head of the relevant College;
- two members delegated by the MCCF, it being recorded that the MCCF shall, in delegating members to serve on the DI Committee be mindful of the diversity of the DI Committee.

6.2.3 The DI Committee shall be mandated from time to time to invite a specialist to the DI Committee if the nature and/or complexity of the complaint requires input and guidance from such a specialist. Any specialist invited to the DI Committee shall not be a standing member of the DI Committee and shall furthermore not be entitled to vote on any decisions to be taken by the DI Committee.

## **6.3 DI COMMITTEE PROCEDURES**

6.3.1 The DI Committee should forthwith investigate all complaints received from the Headmaster and/or School Management Team and, to this end, should invite the Complainant to submit a written statement and/or record an oral statement providing details of and/or responding to the complaint.



- 6.3.2 The DI Committee will then afford the Alleged perpetrator an opportunity to respond to the Complainant's statement.
- 6.3.3 Once statements have been obtained from the affected parties, the DI Committee must schedule a meeting, which must be done no later than 10 days of receiving the complaint.
- 6.3.4 The DI Committee shall evaluate fairly, objectively and without bias, the information provided in the statements of the Complainant and the Alleged perpetrator and may pre-emptively investigate certain aspects of the complaint in preparation for the meeting, following its evaluation of the information provided in the statements. The extent of such an investigation should be limited, to maintain confidentiality and as the timeframe is restrictive.
- 6.3.5 The Complainant may nominate a Complainant's Representative to join him/her in the meeting. The Complainant must also be afforded the opportunity, either in person or through his/her nominated Complainant's Representative, to make submissions and/or present any other evidence in support of the complaint to the DI Committee at the meeting.
- 6.3.6 The Alleged perpetrator will similarly be entitled to make submissions and present evidence to the DI Committee in the meeting, however the DI Committee will hear the submissions and engage with the Complainant and Alleged perpetrator separately, to ensure confidentiality is maintained and allow both the Complainant and the Alleged perpetrator to speak without fear of intimidation or reprisal. In the event of a factual dispute that requires witnesses, evidence, and cross-examination the DI Committee will determine the process to be followed to ensure fairness;
- 6.3.7 The College will provide the requisite secretarial and/or administrative support to the DI Committee to ensure all proceedings and hearings of the DI Committee are properly recorded and/or minuted.
- 6.3.8 The DI Committee must ensure that the emotional and psychological needs of the Complainant are addressed by referring the Complainant to the College's pastoral care system and/or any other professional care, assistance and/or counselling, where necessary. In the case of a learner, the pastoral needs of the learner may be met by the learner's Grade Head or register teacher too. The necessary assistance and/or counselling shall also be made available to the Alleged perpetrator in the event that it is determined that the Alleged perpetrator was wrongfully or falsely accused.

#### **6.4 DETERMINATION BY DI COMMITTEE**

- 6.4.1 Within a reasonable time of meeting with the Complainant and the Alleged perpetrator and in any event no later than 10 days after such meeting and taking into account the wishes of the Complainant for a formal or informal outcome, the interests of the College, the rights and duties of all parties and the principles and prescripts of this Policy, the DI Committee must decide if and how the complaint will be addressed. It is the intention that the members of the DI Committee shall reach consensus on decisions to be taken by the DI Committee. In the event of consensus not reached, decisions by the DI Committee shall require the support of at least 75% of the members of the DI Committee.
- 6.4.2 The DI Committee shall notify the Complainant and the Alleged perpetrator of its decision before any formal action is taken as contemplated in clause 6.4.3.



6.4.3 Should the DI Committee determine that an infringement of any one or more stipulations of this Policy occurred, it may recommend one or more of the following options to deal with the complaint, or such further sanctions, remedies or actions as the DI Committee may deem necessary, having regard to the severity of the infringement:

- An enquiry by the Disciplinary Committee (DC) of the College in accordance with the Disciplinary Code and subsequent DC Hearing, in the case of a learner being the Alleged perpetrator;
- a disciplinary enquiry in terms of the Disciplinary Code, in the case of a staff member, subcontractor or service provider being the Alleged perpetrator;
- School Management must deal with the complaint in terms of the Enrolment/Parent contract in case of a parent being the Alleged perpetrator;
- a Director of Bondev or his/her delegated representative with legal expertise must deal with the complaint in case of a visitor to the campus being the Alleged perpetrator;
- mediation, education, pastoral care and reconciliation and ways in which the Alleged perpetrator and the wider College community can be educated and rehabilitated should be sought where needed and possible;
- any of the foregoing, as relevant, in the event that it was determined that the complaint constituted a false and unjustifiable accusation, to be instituted against the Complainant.

6.4.4 The DI Committee shall report back to the MCCF on all complaints referred to, investigated and determined by the Committee, as soon as reasonably possible but in any event at least once every quarter. The MCCF shall, based on the nature of the complaint and the determination by the Committee, resolve whether any further action is required by MC High School, such as but not limited to reporting to the College Community on the matter, its outcome and steps taken, revising any existing College policies and the like.

6.4.5 For the avoidance of doubt, the role of the DI Committee is to decide how specific cases of alleged violation of human rights or Unfair Discrimination at Midstream College are handled. This can be on a disciplinary, pastoral, reconciliatory and/or legal level. This must be done within the time frames specified and with appropriate confidentiality.

6.4.6 The role of the Head of the College and the relevant deputy head is advisory and to make sure that all stakeholders in the College Community are made aware of the Policy and to monitor compliance with this Policy.

## 6.5 APPEALS

### 6.5.1 APPEALS COMMITTEE

6.5.1.1 The College shall constitute an Appeals Committee in order to hear and adjudicate any appeals lodged in respect of decisions made by the DI Committee and the School Management Team pursuant to this Policy. The Appeals Committee shall be and operate independently from the DI Committee.

6.5.1.2 The Appeals Committee shall comprise the following people:

- an independent chairperson appointed by the College, who shall be an attorney or advocate; and

- the chairpersons from time to time of each of the Working Groups established pursuant to the MCCF; and
- one of the Bondev Directors.

## 6.5.2 APPEALS PROCEDURE

- 6.5.2.1 Should the Complainant and/or the Alleged perpetrator wish to challenge the decision of the DI Committee, either party may lodge an appeal to such decision, by sending a notice to the DI Committee within 5 (five) Business Days of being notified of the decision.
- 6.5.2.2 The notice must set out the aspects of the decision that are being challenged, as well as the reasons for the appeal. The party lodging the appeal shall be entitled to supplement the reasons for the appeal within a further 10 (ten) Business Days of lodging the appeal notice.
- 6.5.2.3 The DI Committee shall refer the appeal to the Appeals Committee, within 5 (five) Business Days from the period contemplated in paragraph 0 and provide all documents and information submitted to the DI Committee in respect of the relevant complaint to the Appeals Committee.
- 6.5.2.4 The Appeals Committee may determine the procedure to be followed in considering the appeal, which may include but not be limited to (i) an evaluation of the documentation and information provided by the DI Committee; (ii) requesting further information and/or statements from the Complainant and the Alleged perpetrator; (iii) hearing further oral evidence from the Complainant and/or the Alleged perpetrator; and/or (iv) conducting a formal hearing. The Appeals Committee shall use its best endeavours to conclude the appeals process within 30 (thirty) days from the date of referral.
- 6.5.2.5 The rights afforded to the Complainant and Alleged perpetrator in paragraph 6.3 shall apply *mutatis mutandis* to the appeals process.
- 6.5.2.6 The outcome of the appeal process shall be final and binding on the Complainant and the Alleged perpetrator, who will abide by the decision of the Appeals Committee.

## 6.6 ANONYMOUS COMPLAINTS

- 6.6.1 While this Policy primarily regulates complaints by identified Complainants, the College acknowledges that certain complaints regarding Unfair Discrimination may be received anonymously and should be considered and addressed with the necessary seriousness and sensitivity.
- 6.6.2 To this end the College shall ensure that all platforms and/or channels through which complaints may be lodged accommodate anonymous complaints and such complaints are forthwith referred to the Head of the College. The Head of the College shall refer all anonymous complaints to the DI Committee to investigate and determine what the appropriate course of conduct is to address the relevant complaint, in accordance with the guidelines set out in this Policy.

# 7 POLICY ADMINISTRATION

7.1 This Policy is administered by the Headmaster in conjunction with the School Management Team and the Headmaster as Chairperson of the MCCF shall refer matters to the MCCF and DI Committee if and when deemed necessary.

7.2 Any queries or comments in respect of this Policy may be addressed to:

The Headmaster  
c/o Debbi Westwood (Midstream College Office Manager)  
Email: [DWestwood@midstreamcollege.co.za](mailto:DWestwood@midstreamcollege.co.za)

## 8 RESOURCES



This Policy was drafted with reference to a number of sources and reference materials. Due acknowledgement is hereby given to the following sources which were used as guidance in preparing this policy:

- 8.1 Constitution of the Republic of South Africa, 1996
- 8.2 Department of Basic Education "*Draft Protocol for the Prevention and Management of Unfair Discrimination in Schools*" (2020)
- 8.3 Department of Basic Education "*Values In Action – A Manual in Constitutional Values and School Governance for School Governing Bodies and Representative Councils of Learners in South African Public Schools*" (March 2011)
- 8.4 ISASA "*Guide to Effective School Transformation and Diversity Management*" (2020)
- 8.5 ISASA "*Transformation and Diversity Workshop – Participants Notes*" (2020)
- 8.6 ISASA "*Toolkit for Transformation and Diversity*" (December 2013)
- 8.7 St John's College "*Dignity and Anti-Discrimination Policy*" (May 2018)
- 8.8 University of Cape Town "*Policy on Racism and Racial Harassment*" (Undated)
- 8.9 University of the Free State "*Anti-Discrimination, Promotion of Equality and Social Justice Policy and Procedures*" (2018);
- 8.10 North West University "*Human Rights Policy*" (2016)
- 8.11 The Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000 (PEPUDA)
- 8.12 The South African Human Rights Commission Information Sheet on Hate Speech  
<https://www.sahrc.org.za/home/21/files/Hate%20Speech%20Information%20Sheet-%20print%20ready-.pdf>
- 8.13 Combatting of Hate Crimes and Hate Speech Bill [B 9—2018]

## 9 POLICY IMPLEMENTATION AND REVIEW

This Policy shall take effect from 1 January 2024 and shall be subject to a formal review every 2 – 3 years only if deemed necessary, or such different intervals as may be determined by the College from time to time.

Date of last review:	August 2023
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Signed	January 2024
Dr S Govender Chairperson	
Dr C Kriek Headmaster	

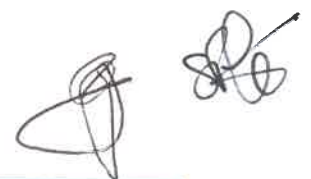


## ANNEXURE A – OFFENCES OF UNFAIR DISCRIMINATION

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These may include, but are not limited to, the following:

- Verbal abuse and threats
- All forms of bullying
- Written Unfair Discrimination (e.g. graffiti)
- Provocative behaviour (e.g. wearing discriminatory badges or insignia)
- Discriminatory comments in the course of discussions
- Ridicule of an individual's differences
- Attempts to recruit other individuals into exclusive groups on prohibited grounds
- Physical assaults
- Any distinction, exclusion, limitation or preference made by a person in an authoritative position who uses unfair grounds to distinguish, exclude, limit or prefer certain persons from being part of sporting codes, education, positions, activities or benefits of any kind meant for any person within the school environment
- To intentionally incriminate or implicate, or falsely and unjustifiably accuse an individual of Unfair Discrimination.

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**ANNEXURE B – ISASA GUIDE TO EFFECTIVE SCHOOL TRANSFORMATION AND DIVERSITY MANAGEMENT, REFERENCED IN THE ISASA TRANSFORMATION AND DIVERSITY WORKSHOP 2020**

Key definitions and concepts The ISASA Guide to Effective School Transformation and Diversity Management uses the following definitions and concepts:

<p>Human diversity (pages 13-14 of the Guide)</p>	<p>Human diversity refers to differences among groups and individuals based on their race, gender, religion, culture, language, national origin, disability status, socio-economic status, age, ideology, sexual orientation, personality and life experience.</p> <p>The concept of diversity encompasses acceptance and respect. It means understanding that each individual is unique, and it recognises our individual differences. It is about understanding each other in a safe and positive environment, and moving beyond simply tolerating to embracing and celebrating the rich dimensions of diversity within each individual.</p>
<p>National Transformation (page 14 of the Guide)</p>	<p>Transformation in South Africa is conceptualised as a re-orientation from past values and practices to a future defined by non-racialism, non-sexism and social relationships based on greater observance of human rights and more equity.</p> <p>Targets of the national agenda include:</p> <ul style="list-style-type: none"> <li>Taking steps to eliminate all forms of unfair discrimination</li> <li>Addressing the effects of past discriminatory policies and practices</li> <li>Ensuring access to economic and developmental opportunities for all, especially the underdeveloped and previously marginalised segments of the population</li> <li>Working towards the attainment of true equality in a non-racist, non-sexist and socially-just society</li> <li>Promoting reconciliation and national unity among the nation’s diverse population.</li> </ul>
<p>Organisational transformation (page 15 of the Guide)</p>	<p>Organisations and institutions are usually a microcosm of society. In a changing nation they must be conscious of the need to transform from within in order to respond to external and internal change drivers. The Employment Equity Act provides legislative impetus for transformation in the workplace by requiring designated employers to:</p> <ul style="list-style-type: none"> <li>a) promote equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and</li> <li>(b) implement affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational levels in the workforce.</li> </ul> <ul style="list-style-type: none"> <li>• Transformation is an institutional imperative</li> <li>• Transformation is not only about legal compliance</li> <li>• Transformation is an enabler of excellence, relevance and social justice</li> </ul>
<p>Why transformation and diversity efforts focus on race (page 17 of the Guide)</p>	<p>South African society has been deeply socialised along racial lines          Inequality in society is mostly defined by race          Employment opportunities reflect the racial stratification of society</p>

## ANNEXURE C - HATE SPEECH INFORMATION SHEET

### WHAT IS HATE SPEECH / HATE CRIMES?

According to the South African Human Rights Commission (SAHRC):	Hate speech is a derogatory expression (albeit in writing, verbal, or contained in an image or symbol) which belittles the intelligence, humanity, appearance or beliefs of a person or a particular group. It is not merely offensive and insulting but also affects the dignity of certain persons or groups.
According to the Prevention and Combatting of Hate Crimes and Hate Speech Bill (*not an act yet)	A hate crime is motivated by prejudice or intolerance towards a specific group in society and targets a person/s who display one or more characteristics or perceived characteristic as a member of a particular group in society.

### IS HATE SPEECH AND HATE CRIMES PROHIBITED IN SOUTH AFRICA?

The Constitution (section 16):

Everyone has the right to freedom of expression, which includes freedom of the press and other media; freedom to receive or impart information or ideas; freedom of artistic creativity; and academic freedom and freedom of scientific research. However this freedom is limited and does not extend to: propaganda for war, or incitement of imminent violence, or advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

The Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000 (PEPUDA) (section 10(1)):

"... no person may publish, propagate, advocate or communicate words that are based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to be harmful or to incite harm and to promote or propagate hatred."

The prohibited grounds referred to in the above definition are race gender sex pregnancy marital status ethnic or social origin colour sexual orientation, age, disability, religion, conscience, belief culture language and birth or any other discriminatory ground.

### WHAT CAN HAPPEN IF A PERSON COMMITS HATE SPEECH / A HATE CRIME?

The perpetrator can be taken to Equality Court and civil damages be claimed

The Human Rights Commission can be involved and impose an appropriate penalty

If made by an employee the employer must take appropriate action (probably dismissal) otherwise it will be held vicariously liable for discriminatory actions of employee in terms of the Employment Equity Act

The person can be criminally charged for *crimen injuria* where someone's dignity was "unlawfully, intentionally and seriously impaired." This could result in a fine or a jail sentence.