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**The Implementation of Employment Equity in the Public Service with specific
reference to the Department of Justice and Constitutional Development**

by

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I wish to dedicate this study to my late beloved parents Mama Sophie and Papa Ponki for laying a solid foundation throughout my education.

DECLARATION

I, Makupu Sylvia Mekwa, declare that *Implementation of Employment Equity in the Public Service with specific reference to the Department of Justice and Constitutional Development* is my own work, and that all the sources I have used or quoted have been indicated and acknowledged by means of complete references.

SIGNATURE
MRS MAKUPU SYLVIA MEKWA

DATE

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ABSTRACT

The Employment Equity Act, No 55 of 1998 forms part of the transformation legislation aimed at promoting equity and eliminating discriminatory and unfair treatment in the workplace. This Act was promulgated more than ten years ago, and its positive impact has to be measured in terms of its contribution to the conduciveness of the work environment. The aim of this study is to enhance measures for effective implementation of an Employment Equity Programme (EEP) in the Public Service, with specific reference to the Department of Justice and Constitutional Development. The ultimate aim is to identify Employment Equity (EE) measures that will benefit management and employees in enhancing individual performance and productivity. The study focuses on perceptions of employees on how they perceive EEP. As the study progressed it became equally important to determine the alignment and contribution of EEP on Departmental strategic objectives. The results and recommendations will be shared with the Department of Justice and Constitutional Development with a view to ensuring that its EEP is aligned to its strategic objectives, and adds value to service delivery.

Key Words

Employment Equity, Designated groups, Affirmative Action, Reasonable Accommodation and Diversity Management

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CHAPTER 1

GENERAL INTRODUCTION

1.1 INTRODUCTION

Before 1994, under the apartheid government the work environment was characterised by many cases of inequality, unfair treatment and unfair discrimination, which led to incessant industrial action. After 1994, with the advent of democracy, many labour laws were passed to address labour disputes, and to make the work environment governable and conducive for maximum performance. One of these laws made great progress in transforming the work environment, the *Employment Equity Act, No. 55 of 1998* (EEA). The objective of the Act as being to promote equal opportunity and fair treatment through the elimination of unfair discrimination, provides a provision for continuous positive impact on transforming the work environment.

From its very inception the EEA was viewed with mixed feelings by both employers and employees in terms of whether it would produce the envisaged changes of transforming the work environment as well as enhance service delivery. Other workforce eagerly anticipated transformational changes in the work environment in terms of more career opportunities. On the other hand, business leaders expressed concerns that the work environment was over-regulated, biased towards the interests of the employees and limiting the employers in effective and efficient running of business.

Human, Bluen and Davies (1999:11) identified problems related to implementing EEA effectively and issued calls for a holistic, integrated approach to people management strategies which would bring success on individual and organisational levels. The identified problems include fragmented, ineffective and inconsistent implementation of Employment Equity Programme (EEP).

In this study Employment Equity Programmes (EEP) refers to the integrated approach to people management strategies. The focus of this study will be on the EEP as developed and implemented within the Department of Justice and Constitutional Development (DOJ&CD).

The perceptions of the employees within DOJ&CD regarding the conditions in the work environment will form part of the depended variables. This will be based on how employees perceive the conduciveness of work environment in promoting effective implementation of EEP.

The researcher has noted that DOJ&CD has developed an Employment Equity Programme since 2005, in compliance with the EEA. The overall objective of the EEP is to create an enabling work environment with specific reference to designated group. Thomas and Robertshaw (1999:12) added that the organisational environment must be targeted to ensure that initiatives to achieve Employment Equity (EE) are effective and enhance the performance and productivity of employees within an organisation.

This Chapter will provide the background and rationale of the study based on legislative requirements and on how other researchers interprets it, where the emphasis will be on *Employment Equity Act, No. 55 of 1998*. The statement of the research problem and the main questions of this study will be outlined. This will be followed by clarification of key concepts of the study which will be giving proper perspective to employment equity programme.

A brief research design will be discussed in terms of how the research survey will be conducted, unit of analysis, sample, data collection and analysis. Lastly, an overview of the chapters of this study will be summarized.

1.2 BACKGROUND AND RATIONALE

In terms of the *Employment Equity Act, No 55 of 1998*, the DOJ&CD is classified as a designated employer. This classification obliges the DOJ&CD to comply with and implement employment equity in its work environment. Moroosi (2007:22) confirmed that the implementation of EE Programme is transformational, based on the objectives of the EEA of bringing about lasting societal transformation by enforcing specific measures on designated employers.

The DOJ&CD EEP includes the following activities: the development of an EE Plan whereby issues of representivity or targets and affirmative action measures are addressed; EE Policy; the enhancement of a consultative forum, and annual submission of an EE Report to the Department of Labour. The development of an EE Plan was preceded by a process of conducting EE Audits. Smith and Roodt (2006:32) confirmed the importance of conducting EE Audits in order to identify possible adverse impact towards effective implementation of EE.

The EEP is intended to create equal opportunities and promote fair and non-discriminatory practices in the workplace. These are based on addressing the historical apartheid practices that prevailed in South Africa before 1994. These practices include disparities in employment, occupation and income within the national labour market. Spiegel (2008:106) noted that those disparities created a great disadvantage to certain categories of people, specifically, black people, women and people with disabilities.

Selby and Sutherland (2006:42) emphasised the importance of regulating the work environment, noting that the South African government has demonstrated its commitment to deal with the problem of inequality and discrimination in the workplace. The promulgation of transformational labour laws, policies and systems further indicated the government's intentions in eradicating inequalities and discriminatory practices, as well as enhancing a conducive work environment (Selby and Sutherland, 2006:42).

Kunene's (2005:85) dissertation titled *Affirmative Action Policy and Practices in the Department of Justice and Constitutional Development With Particular Reference to Gender* has been acknowledged. One of her findings was that employees in the DOJ&CD have limited knowledge of EEP in terms of implication on its effective implementation. Leonard and Glober (2006:394) identified lack of employee involvement as one of the adverse impact against effective implementation of EE in the work environment. This study will therefore analyse the extent of employee involvement in monitoring the implementation of Departmental EEP.

The above is one of several factors that will be explored in this study with a view to identifying challenges to a favourable work environment, and whereby effective implementation of EEP may be compromised.

Coetzee and Vermeulen (2003:18) said, in general terms, which relate to the objectives of this study that intractable problems in implementing affirmative action measures are where organisations regard affirmative action as a political imperative with which they have to comply, rather than as a business imperative.

With this background the researcher's interest was based on the fact that documentary proof exists within the Department that demonstrates a high level of compliance. However, the question remains whether the work environment is, in practice, conducive to promoting the effective implementation of EEP, which therefore calls for a possible need to enhance measures that would improve its implementation. This is based on the argument that compliance with EEA does not presuppose effectiveness in terms of the implementation of EEP.

1.3 STATEMENT OF THE RESEARCH PROBLEM

Department has made attempts to comply and implement EEA objectives. However, like other Departments or organisations, one of the biggest challenges is to ensure effective implementation of EEP, whereby all employees understand and support the intended objectives, as well as to adopt the programme in its contribution towards the achievement of Departmental objectives. This has been confirmed in the King II Report (2002), which gave a directive as part of corporate governance to focus on the business imperative of transformation (Leonard and Grobler, 2006:395).

The first main question in this study is: "What measures are used to implement Employment Equity Programmes in the Department of Justice and Constitutional Development?" The effectiveness of these measures will be examined in terms of their benefit to both management and employees in relation to enhancing performance and productivity. Thomas and Robertshaw's (1999:132) advice has been noted in terms of emphasising the importance of creating shared values that

are adopted in a democratic manner to build business imperatives associated with EE.

Employee perceptions play a critical role in the effective implementation of EEP. Esterhuizen (2008:3) noted the importance of improving employee perceptions in order to eliminate any possible rejection or resistance to implement EEP. In addition, research has shown a correlation between perceptions of fairness to key organisational outcomes such as employee turnover, satisfaction, commitment and performance (*ibid*, 4).

The second main question that this study will focus on is: “what value does implementation of EEP add to strategic objectives of DOJ&CD? The Canadian Public Service adopted other different measures to ensure effective implementation. These included looking for better understanding of how diversity affects the business objectives of government, and an integration of these needs into business and human resources planning (Employment Equity in the Federal Public Service 2004-05 - Annual Report to Parliament). This view demonstrates the importance of ‘going the extra mile’ to strengthen the implementation of EEP, placing emphasis on the conduciveness of the work environment regarding employee treatments, creation of sustainable equal opportunities and non-discriminatory practices. These are aimed at encouraging individual growth and productivity.

1.3.1 Research questions of the study

The overall objective of this study is to enhance measures to ensure the implementation of EE in the Public Service, with specific reference to DOJ&CD. It therefore becomes vital to analyse the existing EEP by posing the following sub-questions:

- What areas need improvement to enhance the current Departmental EEP?
- Is the Departmental EEP aligned to its strategic objectives?
- What are the perceptions of employees about the effectiveness of EEP within the DOJ&CD?

1.4 PURPOSE AND OBJECTIVE OF THE STUDY

The answers to the above sub questions add ideally to the achievement of the following objectives:

- To enhance measures that can be used to implement EEP within DOJ&CD
- The DOJ&CD is obliged to comply with EEA by virtue of being classified as a designated employer. It is therefore the objective of this study to enhance whether the Departmental EEP is aligned to EEA. In addition, it is believed that the effectiveness of employment equity lies in the value it adds to business imperatives. Human, Blues and Davies (1999:V) supported a view of not implementing employment equity for compliance purposes only but to ensure that it makes business sense. Based on this view, this study will also look at the alignment of EEP with Departmental strategic objectives.
- It has been acknowledged that implementation of EEA is a process, and so perfecting will be continuous and may take time. The EEA process therefore, forms part of a transformational process which depends on the commitment of all involved to ensure effective implementation and success. This study will analyse and identify areas for improvement that will be utilised to strengthen the implementation of Departmental EEP.
- According to Human, Blues and Davies (1999:81) implementation of EEP is a line responsibility, where individual managers should be held accountable to demonstrate progressive results. To apply this requires concrete strategies. This, in turn, requires further investigation of levels of management commitment to the implementation of EEP.
- In terms of Section 16 of *EEA, No 55 of 1998*, the employer is required to consult with all the employees on all matters related to EE. This study will investigate employee perceptions about the effectiveness of the implementation of EEP. The objective of the literature review will be to compare the Departmental EEP with other public and private sectors in terms of adopted best practices. The various viewpoints or findings of other researchers and authors will be explored in an attempt to identify possible areas of improvement of Departmental EEP.

1.5 RESEARCH DESIGN

This study will use mixed research methods. Mouton (1996:156) noted the importance of using different research methods whereby additional methods could increase the reliability of observations, as well as complement one another, and to some extent at least, to balance possible shortcomings. Qualitative research method will be used in order to obtain holistic and descriptive data on the objectives of this study. De Vos, Strydom, Fouche and Delport emphasised utilisation of qualitative method when collecting individual detailed information. This method will assist in responding to questions about employee perceptions on how EE Programmes are implemented within the Department (Wessels and Pauw, 1999:288).

According to Wessels and Pauw (1999:386), “knowledge resulting from qualitative analysis is often associated with knowing about” where this method provides the outcomes of generating descriptive data. Qualitative analysis as explained further generates descriptive data which is the outcome of reasoned logic rather than statistical analysis which measures quantities. Redelinghuis, Julyan, Steyn and Benade (1994:5) mentioned the importance of qualitative methods, stating that decision-making is given a scientific basis and that logical thinking is thus supplemented. As a result, decision-making becomes more efficient, with definite benefits being realised. It is believed that quantitative analysis will give integrity to decision-making in relation to this study in terms of providing measurable data capable of being verified.

1.5.1 Unit of analysis and sample

The unit of analysis of this study is the EEP where Department of Justice and Constitutional Development (DOJ&CD) has been used as a context of the object of this study. The sample has been selected based on Babbie and Mouton’s (2001:175) statement that sampling should be selected from elements that accurately portray the population. Thus Employee Advisory Committee (EAC) and management representatives have been selected as a sample. Probability sampling has been chosen as the most desirable sampling option, in line with the explanation

provided by Salkind (2000:86) that it allows the researcher to use a sample that is unbiased, and that also enables statistical inferential analysis.

1.5.2 Data Collection

The questionnaires have been compiled with a set of dimensions and statements to enhance perceptions of employees on the conduciveness of the work environment within DOJ&CD in promoting the effective implementation of EEP. In addition, in order to respond to the research questions of this study, a semi-structured interview questionnaire has been utilised to investigate management's views and perceptions on the value that EEP adds to Departmental strategic objectives.

De Vos, Strydom, Fouche and Delpont outlined the importance of semi-structured interview in terms of allowing researcher and participants with flexibility; where follow up questions can be made and detailed information be given. This method is therefore deemed appropriate when collecting information from managers given the level of their responsibilities and involvement in implementing EEP.

1.6 RESEARCH ANALYSIS AND INTERPRETATION OF RESULTS

De Vos, Strydom, Fouche and Delpont (2011:252) encourage data preparation, which includes checking and editing collected data. Then the raw data must be organised, either through numerical codes or numbers. The numerical approach will be adopted in this study to analyse collected data as it will ensure that every response is consistently accounted for, and validate the analysed information.

Babbie (2004:376) mentioned coding as one of the key processes in the analysis of qualitative social research, by classifying or categorising individual pieces of data and coupling it to a retrieval system. The survey responses will be categorised in terms of different dimensions to give meaning to information gathered in accordance with the objectives of this study. The researcher will evaluate implementation by comparing the observations of how EEPs are implemented against the expectations with regard to legislative requirements and information gathered from the Literature Review study in Chapter 2.

A statistical analysis method will be adopted to summarise the questionnaire results, while the open-ended questions will be categorised under the identified dimensions. Measures of central tendency will be used to provide some indication of the size of average or typical scores (Eysenck, 2004:8). According to Griventer (2008:5) statistical analysis can be regarded as a means of searching for unusual differences between observation and expectations. Accordingly, the researcher believes that the use of statistical analysis will provide more insight into the perceptions of employees regarding the implementation of EEP.

The data collected will be analysed, using both quantitative and qualitative methods. Mouton (1999:166) outlined one of the fundamental uses of qualitative analysis in terms of perspectives and plans that emerge from the interplay between a socially constructed self and a socially constructed environment. In this way a holistic approach will assist the researcher to reach descriptive data obtained from survey results, responses received from management interviews, literature review and legislative framework analysis.

1.7 SEQUENCE OF CHAPTERS

The study will be divided into five chapters as summarised below:

Chapter 1 serves as introductory to the study in terms of its objectives. It commences with the background of EE, problem statement, research questions and the research objectives. A summary of the researcher's interests and factors that motivated this research study has also been outlined. A brief overview of the research design has been given, which includes the research methodology, unit of analysis, data collection and analysis methods.

Chapter 2 focuses on the literature review covering the practical implementation of EE in other organisations. This Chapter looks at the viewpoints of other researchers. This is with the intention of learning from others, sharing their ideas and ultimately adopting new strategies in order to improve the work environment and enhance effective implementation.

Chapter 3 provides the legislative framework that enforces EE. EEA and related legislation will be discussed with emphasis on areas that encourage effective implementation. The researcher believes that effective implementation begins with legislative compliance, which determines measures that can be used to implement EEP in order to create conducive work environment. Based on these, the legislative framework will be explained, and will form part of the guiding principles that enhance effective implementation of EEP.

Chapter 4 presents the research results. Management's views have also been articulated regarding the value that EEP adds to Departmental objectives. The research results have been summarised and analysed in line with the literature review and legislative framework discussions from chapters 2 and 3.

Chapter 5 outlines the research findings and integrates information gathered from this study in terms of the study objectives. The research findings are aligned to the research questions in order to identify measures to be used to implement EEP and create a conducive work environment. Strategies are then compiled as part of recommendations to respond to the main question of the study.

1.8 SUMMARY

The background and objective of the study have been outlined in this Chapter. The researcher's point of interest will focus on investigating the measures that can be used in creating conducive work environment in promoting the effective implementation of EEP within DOJ&CD. The main question and other research questions have been elaborated as part of statement of the research problem. These have been conceptualised in accordance with the requirements and objectives of EEA as well as the practical applications.

The research design has outlined the methods of collecting data and how data will be analysed in order to respond to the research question.

A summary of all the chapters has also been provided in order to give an overview of this study.

CHAPTER 2

LITERATURE REVIEW ON EMPLOYMENT EQUITY IN SOUTH AFRICA

2.1 INTRODUCTION

Chapter 1 described the problem statement and the objective of this study, which is to enhance measures to ensure effective implementation of the EEP within the Department of Justice and Constitutional Development (DOJ&CD). The research methodology to be followed was also discussed.

In chapter 2 employment equity and other related concepts will be defined, such as, 'employment equity' within the context of this study, 'affirmative action', 'designated group' and 'employer', provision for 'reasonable accommodation' and 'diversity management' in order to contextualise the contributing factors towards effective implementation of EEP.

New or possible improvement on strategies that facilitate effective implementation of employment equity will be explored, such as affirmative action and reasonable accommodation of designated groups. Additional strategies will include measures that enhance employment equity, such as skills development and effective communication of departmental EE objectives.

This chapter will deal with adverse impact to effective implementation of EE, also on the work environment and employees as well as service delivery. Lastly, the relevant strategies to minimise identified negative impacts that may compromise effective implementation of EEP. It is believed that discussion of these factors will assist in responding to the question that this study intends to pursue, namely, "what measures are used to implement Employment Equity Programmes in the Department of Justice and Constitutional Development?"

2.2 DEFINING EMPLOYMENT EQUITY CONCEPTS

The focus of this study is on the effective implementation of EE Programme within DOJ&CD in relation to employee and management participation and understanding

of the value of this programme on Departmental strategic objectives. The concept of the EE Programme in this study refers to policies and strategies adopted by DOJ&CD in compliance with EEA.

Definitions of EE and other related concepts will be provided for purpose of ensuring that the objectives of this study are clear.

The terms “employment equity” and “affirmative action” are frequently used interchangeably. The two terms are closely related, as they complement one another. Esterhuizen and Martins (2008:68) distinguish between EE and affirmative action, noting that the latter is the *desired outcome*, while the former is the strategy towards achieving EE outcomes. Provision of reasonable accommodation will be discussed as a concept that is equally important in successful implementation of EEP. The process of developing affirmative action measures needs to be preceded by another process of identifying possible adverse impact that may prohibit effective implementation of EE. This will further enhance the needs that give rise to the requirement of provision of reasonable accommodation.

2.2.1 Employment Equity (EE)

Employment Equity is defined as a policy that gives preference of employment opportunities to qualified people that were previously discriminated against in the work environment (E-dictionary, undated: on-line). According to Dima (2009:1) EE involves efforts to achieve equity and fairness through the elimination of structural and attitudinal discrimination, as well as a work environment that promotes diversity management. Smith and Roodt (2003:32) further outlined the objectives of EE as to achieve equity in the workplace by “promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination” and to implement affirmative action measures to redress the disadvantages in the workplace experienced by designated groups.

This definition emphasises the essential factors necessary to make a work environment conducive to enabling individual employees to realise their potential without any adverse impact deemed discriminatory or any unfair labour practices.

Based on this definition EE can be understood as a transformational process aimed at affording fair and equitable opportunities to all employees, with specific focus on those who were previously discriminated against. This discrimination applied both to entering the work environment and to advancing career growth and opportunities once in it. This description implies that the work environment should be as favourable as possible, encouraging individual employees to realise their potential without any discriminatory adverse impact or other unfair labour practices.

2.2.2 Affirmative Action (AA)

The White Paper on Transformation of the Public Service of 1995 defined **AA** as “a law, program or activity designed to redress past imbalances and to ameliorate the conditions of individuals and groups who have been disadvantaged on the grounds of race, colour, gender or disability”. The White Paper on Affirmative Action in the Public Service of 1998 defined AA as “additional corrective steps to address unfair discrimination and ensure full benefit from an equitable employment environment by historically disadvantaged groups”. Tladi (2008:14) defines it as “a strategy to address the inequality and unfair discrimination experienced by a designated group in the work environment”.

Coetzee & Vermeulen (2003:18) add that affirmative action is “the purposeful and planned placement or development of competent or potentially competent persons. This means that affirmative action requires proper planning to ensure appointment of a competent workforce that reflects the demographics of the country”. This view is supported by McGregor (2006:397) who understands the purpose of affirmative action measures as being to ensure the achievement of substantive equity through the long-term goal of reducing inequality.

Based on these definitions, derived from legislation and researchers, it can be concluded that AA is a supportive strategy for the achievement of EE objectives, with the ultimate objective of transforming the work environment to ensure its conduciveness to enabling designated groups to maximise their potential.

According to Ngwena (2006:539) affirmative action is one of the most important concept for achieving EE objectives. Affirmative action involves accelerating transformational processes in order to ensure equitable representation where designated groups are empowered to contribute positively to improved service delivery, also to change the composition of the workforce by means of goals that serve to achieve a desired rate of participation by members of designated groups.

Whiteford (2002:133) added that the effectiveness of affirmative action depends on affirmative change, meaning that the company must be prepared to change its whole climate, and create a new culture of tolerance and respect for individual differences. This, in turn, emphasises the importance of stakeholder involvement, and readiness to make the envisaged changes a reality.

2.2.3 Provision of reasonable accommodation

The above definitions emphasise the conduciveness of the work environment to accommodate people from designated group. ***Provision of reasonable accommodation*** is equally fundamental to the conduciveness of the work environment, given the historical hostility the designated people endured.

In terms of the Employment Equity Act of 1998, reasonable accommodation has been defined as “any modification or adjustment to a job, or to the working environment, that provides a person from a designated group access to participation or advances employment”. This calls for employers to ‘go the extra mile’ in identifying the needs of designated groups so as to create a conducive work environment that will enable individuals to execute duties in a fair, equitable and non-discriminatory manner. Kasika (2006:36) supports this, referring to the Code of Good Practice on the Integration of Employment Equity into Human Resources Policies and Practices, which regards reasonable accommodation as a tool intended to ensure that employers take cautious steps to go out of their way in order to accommodate certain situations.

The Code identified four areas where reasonable accommodation may be required (Code of Good Practice on the Integration of Employment Equity into Human Resources Policies and Practices – Government Gazette, August 2005), namely:

- During the recruitment and selection process;
- In the working environment;
- In the way work is usually done, evaluated and rewarded; and
- In the benefits and privileges of employment

The provision of reasonable accommodation as articulated thus takes into consideration the uniqueness and different needs of individuals. This calls for employers to conduct audits to identify individual needs in order to provide reasonable accommodation. Ngwena (2006:535) urged that reasonable accommodation be seen as primarily a non-discrimination principle, integral to the determination of direct and indirect discrimination. The basis for reasonable accommodation is to provide an enabling work environment to designated groups in terms of resources, facilities and atmosphere that is conducive for one to realise his/her potential.

2.2.4 Designated groups and employers

For the purpose of this study the terms ‘designated’ or ‘disadvantaged’ groups will be used interchangeably. The term **‘designated group’** has been defined in the Employment Equity Act of 1998 to refer to black people, women and people with disabilities. ‘Black people’ has been used as a generic term to include Africans, Coloureds, Indians and Chinese. In the Explanatory Memorandum on the Employment Equity Amendment Bill, 2010, the definition of ‘designated group’ was amended to ensure that beneficiaries of affirmative action, in terms of Chapter III of the Employment Equity Act (EEA), are limited to persons who were citizens of the Republic of South Africa before the democratic government, or those who would have been entitled to citizenship but due to Apartheid policies were not granted it. EEA categorized designated groups as the beneficiaries of EE based on the historical hardships that they experienced. Groenewald (2006:21) added that the disparities in the workplace are a direct legacy of past discriminatory laws,

particularly laws that deliberately excluded black people, women and people with disabilities from key decision-making positions and skills development opportunities.

'Designated employer' will be limited to the definition provided in Section 5 of EEA in terms of an organ of state as defined in Section 239 of the Constitution, (but excluding local spheres of government), the National Defence Force, the National Intelligence Agency and the South African Secret Service. Both designated group and employers are based on transformational principles of ensuring inclusiveness where equitable and fair treatment of all in the work environment is at the forefront.

2.2.5 Diversity Management

According to Rangarajan (2010:251) **diversity management** contributes to a positive work environment in which acceptance of differences may lead to improved team work and unity. The South African work environment in itself is diversified in terms of the citizen profile. Diversity management therefore in the context of this study encompasses the range of individual differences and similarities on the basis of building harmonious working relationships towards the achievement of a common goal. Wessels (2008:24), states that the role of diversity management is to promote a good working relationship in the working environment.

Diversity management in the context of this study has been noted as one of the fundamental strategies towards achievement of EEP; especially in relation to the ultimate objective of transforming the public service work environment; to ensure equitable representivity of the workforce that should render efficient service to the diversified South African citizens. Maelane (2004:12) describes diversity management as playing a critical role in ensuring smooth transformational process within the context of EEP. It requires a conducive and supportive environment to both designated and non-designated groups.

2.3 ANALYSIS OF THE IMPLEMENTATION OF EMPLOYMENT EQUITY IN THE PUBLIC SERVICE

One of the problems that necessitated this study was to enhance the conduciveness of the work environment to ensure effective implementation of EEP. Du Plessis, Fouche and Van Wyk (1999:230) argue that the need for transformation in South Africa should be linked with environmental considerations on the basis of moral and strategic nature. Jongens (2006:2) adds that Employment Equity and Affirmative Action are two aspects of the significant process of transformation. He further outlines transformation as the process whereby an institution actively takes steps that lead to a working environment where non-discrimination exist and where employees enjoy equal opportunities. Based on these arguments, it may be accepted that effective implementation of EEP may result in a transformed and conducive work environment.

The context of all such discussion is that the public service work environment was adversely affected by the previous regime, with its apartheid laws. Due to this, the South African public service work environment experienced inequalities and unfair labour practices, such as lack of gender representation, and race discrimination. Milne (2009:970) concurs, describing the public service workforce as being divided along racial lines with separate administrations for white, coloured and Asian people.

Other notable characteristics of the public service work environment consisted of income differentials, where the majority of black people were paid low salaries, as they were performing menial duties. In terms of gender representivity, women in general were employed in lower-level positions, while disabilities were handled as a social welfare problem. In order to address the identified inequalities within the work environment in the public service, transformation has been identified as one of the fundamental processes in the effort to reshape the service.

Zulu and Parumasur (2009:2) add that transformation requires an environment where equal opportunities are given so that everyone can be developed to experience full potential. Wessels (2008:23) provided further clarity about transformation within the public service that it should lead to genuine representivity

which reflects South African demographics based on efficiency and competency. The transformational process should also facilitate attitudinal and behavioural changes in promoting a democratic ethos. All this relies on a transformed environment in the public service.

The extent of successful transformation in an organisation can be determined by employees' perceptions on whether programmes are fair in addressing inequalities, in addition to mere legal compliance in terms of fairness requirements. The next discussion will focus on employee perceptions towards achievement of the intended objectives of transforming the public service in order to create a conducive work environment.

2.3.1 Perceptions of employees on EEP

The perceptions of the workforce on the effectiveness and implementation of EE in the workplace contribute largely to its success. There are various factors that contribute to both negative and positive perceptions, all of which affect the conduciveness of the work environment. Some of the factors are related to race, gender, the behavioural aspect towards EEP, working conditions and management commitment. Coetzee and Vermeulen (2003:18) agree that the perception on whether affirmative action is fair depends on the effectiveness of its implementation.

The degree of fairness in implementing EEP can be measured by management's commitment to making it possible. This can be done through creating opportunities, a platform for consultation and providing the necessary resources. Oosthuizen and Naidoo (2010:2) add that the necessity that management should consider whether the organisation has the capacity to design and lead the process of creating fair, equitable and tangible actions that demonstrate their commitment. The capacity problem may lead to inconsistent application, and thus further exacerbate elements of mistrust in employees about the effectiveness of EEP in the organisation (Booyesen, 2007:56).

Negative perceptions in employees about EEP may create an undesired attitude towards poor individual performance as well as to service delivery. At the individual

level designated groups are stigmatised and labelled 'AA appointees', and perceived to be employed on the basis of tokenism. Bezuidenhout, Bischoff, Buhlungu and Lewins (2008:8) confirm this viewpoint, based on interviews that they conducted, where it was established that many people are concerned in terms of the perceptions that black workers are employed to positions for which they are not qualified.

A study conducted by Pretorious, Human, Niemann, Klinck and Alt (2002:18) on employment indicated an adverse impact experienced by women and revealed that some of the perceptions relate to actions of exclusion and degrading expressions such as "You women are hysterical or emotional". Van Zyl and Roodt (2003:14) identified the consequences of such utterances, and noted the perceptions that they may create more tension between men and women, weaken women decision-making and reinforce male employees' sense of superiority.

In addition to these, other perceptions persist, reinforcing the sense of a work environment still non-accommodative to designated groups, with specific reference to special needs for women and people with disabilities. Mafunisa (2005:260) refers to male-dominated informal networks and cultures which often inhibit women's progress. In this case the organisational policies are established in a manner that cause women difficulty occupying senior management positions, due, for example, to inflexible work practices which do not accommodate working mothers with small children in terms of allowing them flexible working hours to take care of family responsibilities.

Zondi (2010:316) conducted a study in the Department of Agriculture, Forestry and Fisheries and found that not all the employees in that Department were satisfied with Affirmative Action Policies. White respondents perceived it as a tool to perpetuate inequality. This argument has been shared by many. Some political parties argue that timelines should be put in place to regulate possible workforce profile changes in future, as the scene might change, and white people become under-represented.

Kunene's (2005:98) research finding on the study conducted in the Department of Justice and Constitutional Development identified the following employees' perceptions:

- A lack of interest in and awareness of AA and employment equity by many employees.
- That employees only became interested when their own positions and interests were threatened.
- Resistance to change by some employees and managers, especially white.
- Lack of executive management support for implementation of employment equity in some directorates.
- Many managers paying lip-service to the need for a more representative service.
- A lack of an effective communications strategy for informing employees about the need for AA and employment equity.
- A lack of involvement by employees in the formulation of EE communication strategies.

These negative perceptions may cause irreparable damage, such that qualified and competent people disassociate themselves from EEP. This could lead to difficulty in attracting and retaining designated groups and, ultimately, to non-achievement of EE targets. Isaaks (2003:35) encourages proper management of negative perceptions to targeted groups in order to eliminate possible feelings of being degraded and ridiculed. Oosthuizen and Naidoo (2010:5) suggest approaches of addressing such perceptions. EE should be implemented sensitively and strike a balance in order to afford black peoples an opportunity to benefit from life's opportunities. Some of the perceptions may instil anxiety from the previously advantaged groups who might perceive AA and EE processes as reverse discrimination. Such perceptions, if not properly managed, may lead to resistance to implementation of EEP (Esterhuizen and Martins, 2008:19).

The legitimacy of EE can be continually questioned and challenged by many opposing its existence, including at the court of law, if clear objectives of EEP are not provided (Harris, 2009:357). The perceptions and arguments presented above clearly indicate the importance of clarifying AA and EE objectives to both non-designated and designated groups.

2.3.2 Adverse impact to effective implementation of EE

The issue of representivity remains a national priority, followed by a strategy of ensuring achievement while maintaining efficient service delivery. Maphunye (2006:307) raises the most critical question in terms of how government would be able to attract and retain employees with a mix of relevant skills within its limited financial constraints. This question is based on the challenges faced within the public services where there is high demand and stiff competition of the skilled and competent in designated groups.

Further arguments have come to the fore with regard to a balanced approach, not only focusing on representivity, but also ensuring fair treatment in employment and elimination of unfair discrimination. A concern raised by Agocs (1996:32) is that of focusing on AA compliance in terms of numerical representation without changing organisational policies and practices to ensure proper adjustment of designated group. The working environment must be such that designated groups enjoy equitable career development opportunities and rewards for their contributions, in order to eliminate any possible negative perceptions as outlined in the previous discussion.

These employee perceptions may translate into adverse impact to implementation of EE if they are not properly addressed. Unresolved perceptions may negatively affect the work environment, individual performance and service delivery to the extent of hampering progress towards implementation of EEP.

2.3.3 Adverse impact of EE on work environment

The conduciveness of the work environment is critical to ensuring effective implementation of EEP. According to Thomas (2002:2) the South African work environment is still characterised by adversarial relationships, where organisational culture does not embrace diversity management. EE adverse impact are believed to be worsened by the work environment that is not ready for smooth implementation of EE objectives and where organisational policies, procedures and practices are still based on discriminatory and unfair labour practices.

The organisational culture may be seen as incompatible with designated groups. Esterhuizen and Martins (2008:40) described the work environment as having a historically white corporate culture. In such an environment it may be difficult for a designated employee to easily fit and adjust. This may result in a designated group feeling alienated from the organisational culture, and may impact negatively on individual career growth and performance. Coetzee and Vermeulen (2003:19) strongly oppose a work environment that is surrounded by negative perceptions as likely to result in employee frustrations and threaten their self- and social images. This may, in turn, cause a high labour turnover, legal battles and lower the probability that the implementation of EEP will succeed.

Furthermore, it is noted that the EE benefits may not be realised if its objectives are not integrated with strategic business objectives. Esterhuizen and Martins (2008:69) link strategic integration with management commitment, and the argument is that the impact of a lack of leadership commitment may result in poor management of diversity and a reduced chance of achievement of strategic objectives. Leadership direction is considered to be critical in ensuring that the work environment is conducive and accommodating the policies, procedures and practices supporting transformational initiatives.

Pretorius et.al (2002:32) identified some of the adverse impact as limited time, money or resources. Adverse impact such as these may be attributed to resistance to change while in other cases may be genuine problems given the work pressure due to work load or capacity problems. Development and enforcement of transformational policies and procedures would be essential to overcome these adverse impacts.

2.3.4 Adverse impact of EE on employees

According to research conducted by Cilliers and Stones (2005:52), non-designated groups still have deeper behavioural experiences and unprocessed negative feelings in the workplace regarding the implementation EE. Their research explored the systems of psychodynamic behaviour manifesting in the context of employment

equity. They found that, while EEP may appear to be fully supported by non-designated groups, with clear evidence of good intentions and legislative compliance, many may still experience anxiety of losing or giving away the power they have possessed for so many years. They are sometimes compromised by the fact that they are expected to provide training to the designated groups, while carrying the suspicion that the designated people, once trained, will take over their jobs.

The results of this anxiety may manifest in defensive behaviour, withdrawal (which may be in the form of poor performance), absenteeism and resistance to EEP initiatives. Another such reaction, according to Romano (2007:5) is that white workers leave the country because they feel that there are not enough opportunities for them here, and that they are limited in their upward mobility.

Friedman and Erasmus (2008:38) concur with these views, that exclusionary hiring practices when implementing affirmative action measures at the expense of non-designated groups reinforce the perceptions of limited opportunity. Of course, such perceptions may be motivated by either lack of information or resistance to change, and this calls for interventions to ensure that all stakeholders are in agreement.

Hoog, Siebers and Linde (2010:74) mention concerns of employees of poor implementation of AA, where inappropriate selections are made without consideration of relevant competencies which may have an impact on productivity due to non-performance. Dupper (2008:434) maintains that too much emphasis on achieving targets may create tension and greater disruptions, more especially where the employer does not have a proper EE plan in place, with clear objectives. Thus employers are urged to ensure that their actions are clearly outlined, communicated and supported by all employees.

The arguments at national level raised by political organisations indicated concerns of lack of skills and competencies or provision of opportunities for acquiring those skills. The counter-argument points to the tripled results of black graduates. The consolidated national EE Report from DOL (Occupational Risk: Legislation and Compliance: 2010:6) has shown a tremendous increase of professionals. The

question then is, to what extent are these newly-acquired skills being utilised? Both designated and non-designated groups aspire after career growth, and non-recognition of their competencies or acquired skills may demotivate them or even reinforce misconceptions of transformational initiatives.

Coetzee and Vermeulen (2003:17) mentioned a further, disturbing, barrier to EE; that designated groups may be allocated meaningless job assignments that do not provide opportunity to develop their potential, more especially where individuals possess both required skills and competencies of the job. Thus people skills are under-utilised. Such actions are tantamount to sabotaging the transformational process. Mavundla (2009:22) identified a gap between policies and effective implementation of these policies. The argument points to a lack of critical building blocks for equality of outcomes, and not just equality of opportunity.

Romano (2007:9) further warned that beneficiaries of affirmative action may experience racial tension, finding themselves excluded. Strategies for enabling support are required for the designated groups to enhance their performance. Van Zyl and Roodt (2003:14) add other adverse impact that may hinder women's career development as follows:

- The culture and values of the organisation, based on the male career model, that includes total availability to work long hours;
- The organisation's attitude to family care responsibilities, which may create a problem for balancing career progress and to the needs of children;
- Lack of mentorship programs providing training and breadth of skill; and
- Lack of self-confidence that arises from a need to balance home and work in an unsupportive environment, leading to a feeling of inadequacy in both.

2.3.5 Adverse impact of EE on service delivery

According to Clare (1996:122) the EE agenda is critical for rendering excellent and professional service to communities. A diversified workforce with the right attitudes and skills thus needs to be attracted and retained. However, the public service is moving slowly in achieving this. It inherited from the previous regime, many who are

resistant to change, and who are likely to view EE as one of those unnecessary, irrelevant processes.

Coetzee and Vermeulen (2003:18) identify a barrier to effective implementation of EE to lie in seeing it in terms of compliance with political imperative rather than as an integrated business objective, which includes the appointment of a competent workforce. Thus the EEP might not be concerned with business needs, but remain a compliance issue, or even a fruitless exercise that does not enhance service delivery. The focus on political imperatives could reduce it to window dressing, where in turn the quality of service may be compromised, and the very competent people may not be able to achieve job fulfilment.

2.4 STRATEGIES TOWARDS EFFECTIVE IMPLEMENTATION OF EMPLOYMENT EQUITY

The previous section identified adverse impact to the implementation of EEP. Having identified them it is necessary to look at strategies for overcoming them. It has been emphasised that the effective implementation of EEP should commence with the identification of measures that can be used to create a conducive work environment.

Strategies will be discussed in terms of their impact on ensuring transformation at both individual and organisational levels. Further essential strategies are the legislative requirements that have been provided as guidelines to assist both management and employees with implementation. These include development of EE plans with more emphasis placed EE audits and AA measures, provision of reasonable accommodation and monitoring and evaluation with specific reference to active participation by all stakeholders.

It has been noted that some of the adverse impact experienced at both individual and organisational levels are the result of limited understanding of diversity issues, where individual differences are not embraced. This results in poor working relationships and, intolerance amongst employees, which ultimately negatively affect the conduciveness of the work environment. Based on this, diversity management will be discussed as one of the strategies to enhance the implementation of EEP.

2.4.1. Employment Equity Plan and Affirmative Action measures as a strategy

A designated employer is obliged, in terms of EEA, to develop an EE plan before implementing AA measures (Van Jaarsveld, [sa]:639). This should be preceded by other activities, such as conducting EE audits to enhance underrepresented levels or categories. The EE audits should also analyse the work environment regarding policies, procedures, practices and facilities that are discriminatory or may impede implementation of EE.

De Vos (2010:1) mentioned other important factors when formulating AA measures, namely that there should be clear targets to advance individuals who belong to a group which suffered from past unfair discrimination. The adopted measures should be designed in such way that they protect the rights and interests of those individuals. The other point is to ensure that the measures are used to promote equality in the long term. The important principle to be observed is that AA measures are purposeful and should not be randomly applied in terms of preferential treatment.

The AA measures to be prioritised in order to accelerate effective EEP have been outlined by Hlongwane, ([sa]:69) to include recruitment procedures, advertising and selection criteria, appointment process, promotion, remunerations, the working environment and facilities, training and development, performance management systems and all other practices that may be deemed discriminatory or to constitute unfair labour practice.

2.4.2 Reasonable accommodation as EE strategy

The provision of reasonable accommodation has been defined above in terms of its applicability to designated groups. It has, however, been noted that the provision of reasonable accommodation has mostly been limited to people with disabilities. The author considers that this definition should be extended to include all the designated groups, given the historical background and hardships they also endured from the previous regime. This is also based on transformational initiatives of creating a

conducive environment within the public service, as confirmed by Sebola (2009:1104), by clarifying government's intention of transformational policies as being to bring positive results that will maintain stable and positive political, economic and social change. Sebola (2009) further encourages significant measures to redress the past discriminatory and unfair treatment endured by designated groups.

Maphunye (2006:301) holds that South Africa's government departments have not done enough where "no deliberate attempt has been made to avoid addressing gender imbalances". The Constitution provides for the eradication of adverse impact that unfairly discriminate on the basis of race, gender, class and other grounds of inequality. All these views justify an urgent need to present innovative ideas and actions to implement EEP. Ramphela (1995:5) refers to the adoption of programmes that should create an equal opportunities environment to bring out the best in all citizens. Such programmes include providing increased access to resources and opportunities; and greater focus on the development of people, that is, a people-centered development process.

Matshikwe (2004:139) linked other innovative measures to training and development of people from designated groups, including access to structured training and development programmes such as learnerships and internships, on-the-job mentoring and coaching; and accelerated training for new recruits.

Provision of reasonable accommodation should commence with basic strategies in terms of the organisation's attraction and retention processes that cover the recruitment and selection process and the working environment.

2.4.3 EE strategies at individual level

Successful implementation of EEP depends on how people issues are dealt with in an organisation. The important strategy comes with diversity management in terms of the value placed on people differences. Wessels (2008:29) discusses the importance of diversity management, emphasising behavioural aspects in getting the best from every employee to the benefit of the organisation. This viewpoint is

supported by Horwitz, Bowmaker-Falconer and Searll (1996:134), who propose creative solutions to address deeply-entrenched discriminatory practices and social divisions as they impact on the work environment. The proposal is to incorporate diversity management with human resource development to change employees' attitudes and values, and bring tolerance and understanding to the organisational vision in order to implement EEP.

Once tolerance amongst employees is obtained, the next process will be to ensure employee involvement and participation. Rangarajan (2010:252) emphasises the utilisation of diversity management to accelerate representation to harness the full potential of diverse individuals. Diversity management is closely linked to the transformational process in terms of clarifying and removing fears, stereotypes or doubts about the intended objectives of EEP, and to ensure that both employees and organisation benefit. It is believed that this approach will ultimately lead to a harmonious working relationship where EE principles are embraced.

Walbrugh and Roodt (2003:28) propose other employment equity strategies that should form part of the EE Plan, including skills and career development opportunities for designated groups. The proposed flexibility relates to provision of reasonable accommodation to designated groups, taking into account the historical hardships that they experienced, especially in denied opportunities to education and advanced career opportunities in the workplace.

Andrews (2008:12) further advises on strategies to fast-track transformation. Transformation will not happen without a better understanding to dispel myths; broadcasting benefits in order to reduce fear and anxiety; helping people become aware of the support available, including recognition of 'transformation heroes', and generally generating a feeling of inevitable change. It is believed that if individuals contribute to transforming the work environment, the EEP will yield better results.

2.4.4 EE strategies at organisational level

Human, Blues and Davies (1999:33) outlines critical success factors for employment equity and identified management commitment and integrated strategy as forming

part of that. The entire organisation is required to be involved in the implementation of employment equity. Implementation of EE also requires active management commitment and accountability, so that leadership direction must be initiated from top to bottom.

Leadership direction begins with the development of a business case for transformation, which should be incorporated into the organisation's strategic objectives and cascaded down to all employees (Selby and Sutherland, 2006:58). Once strategic direction is given and management is adequately visible in support of the EEP, this could lead to elimination of EE adverse impact and strengthen employee participation.

Selby and Sutherland (2006:47) support the idea of people involvement, and, further, encourage effective consultation and communication between management and employees. In this way, the employees' needs and inputs will be taken into consideration and management's EE position clarified. Watkins (Anon) emphasises the importance of Employment Equity committees, as they remain the most elementary components of the EEA. This view is supported by Balkin (1996:181), maintaining that stakeholder involvement ensures participation in and ownership of, the process.

According to Thomas (2003:5) holistic and supportive human resources practices are essential in the quest for the workplace equity in order to address unfair workplace discrimination. Based on this, it is therefore critical that human resource policies, procedures and practices be analysed in order to identify possible EE adverse impact, as all these have a direct impact on the conduciveness of the work environment. Wessels (2008:23) describes the need for transformation in the public service in terms of a genuine process of ensuring better representation of the public service that reflects the essential characteristics of South African demography. The emphasis in this instance is on reshaping the workforce profile in the public service with competent people that will enhance efficient service delivery.

The appointed public servants should reflect the demographics of the country in such a manner that diversity is embraced in line with the democratic ethos, with positive

attitudes and behaviour towards service delivery. Mafunisa (2005:258) urges the public service to be exemplary in terms of ensuring that its workforce reflects the demographics of the country, as well as being representative in service delivery. By so doing, it is believed that a significant and discernible system of governance change will be achieved, where relationships are built and maintained within the structures of public service institutions and the people they serve. This is based on the assumption that black civil servants will empathise with the plight of the black community, and thus be more responsive and caring towards them.

2.4.5 Diversity management as EE strategy

Agocs and Burr (1996:30) refer to the importance of integrating diversity management and affirmative action in view of the fact that diversity management is primarily a response to demographic changes. Furthermore, diversity management is seen as complementary to EEA as a mandatory policy, as well as a strategy to address affirmative action issues.

Horwitz, Bowmaker-Falconer and Searll (1996:139) describe diversity management as in-depth understanding of individual differences based on upbringing with different values and assumptions, which may affect relationships in terms of how people cooperate, compete, communicate, plan, organise and are motivated. Agocs and Burr (1996:36) agree that the underlying objectives of diversity management are improving interpersonal and inter-group communication and relationships in the workplace.

EEP emphasises transformation in the workplace to ensure that it is non-discriminatory and promotes fair treatment and equity. Changes are to be implemented by individuals who have been living differently with different beliefs and cultures. It therefore becomes necessary that a programme be put in place to ensure better understanding. Horwitz, Bowmaker-Falconer and Searll (1996:134) argue for the necessity of diversity management given the changes brought by the new government, from apartheid to democracy. This needs creative solutions for integrating economic growth and development in order to overcome deeply-entrenched discriminatory practices and social divisions.

Rangarajan (2010:249) believes that a diversity programme should bring organisational change, leadership commitment, employee participation, accountability of AA and diversity goals. He further emphasises the critical role that managers should play in terms of demonstrating leadership commitment, setting an example of openness, and at the same time changing the organisation's philosophy and culture.

Diversity management should be presented to employees in the form of diversity training in order to empower them to manage stereotypes, prejudice and bias. It should further assist people from different backgrounds to value diversity and to empathise with those who are different from themselves. Agocs and Burr (1996:39) advise that the beneficiaries of diversity management should be both designated and non-designated groups. Through diversity management programmes, non-designated groups will be helped to feel comfortable and to eliminate their fears and anxieties, while designated groups will be assisted with assertiveness skills.

Gray (2008:286) advocates employing positive measures that will ensure diversity in the Public Service workforce that reflects the citizens it serves. This view supports the alignment of employment equity and diversified workforce, in the interests of rendering efficient service delivery. Based on all this, it can be concluded that diversity management is an essential strategy in enhancing effective implementation of EEP. It further has a direct positive impact on a conducive work environment, as it ranges from employee relationships for both designated and non-designated groups, individual performance and overall organisational performance, which in turn enhances service delivery.

2.5 SUMMARY

This discussion is based on the literature review in investigating measures that can be used to effectively implement EEP within DOJ&CD, with the aim of finding strategies to improve the conduciveness of work environment.

Definitions of EE-related concepts were provided in order to clarify the focus areas and the purpose of the study. Five key concepts were identified, and their interrelatedness explained. The definition of EE described its main objective of promoting equal opportunities and fair treatment through the elimination of unfair discrimination. AA as part of transformation has been identified as a strategy towards achievement of EE which further focuses on redressing past imbalances and ensures representivity of the designated group.

Provision of reasonable accommodation was also discussed, showing that it makes the relevant processes, facilities and resources available to enable the designated group to access, advance and function optimally in the work environment. It was established that more work still needs to be undertaken to ensure alignment of EEP objectives with organisational strategic objectives. This will then lead to an integrated approach, where EE will be incorporated into Departmental activities and ensure that the EEP benefits both the organisation and employees. Implementation of EE in the Public Service was studied in terms of the transformation processes arising out of the new government's democratic principle. The aim is to diversify the work environment with the ultimate goal of ensuring efficient service delivery. The analysis also studied general employee perceptions of EEP.

Adverse impact to effective implementation of EE was also discussed as part of the analysis of the work environment. These adverse impacts were studied from the organisational aspect, in policies, procedures and practices, and management commitment in supporting and ensuring effective implementation. Adverse impact from the employee point of view was discussed, based on their readiness, availability of skills and competencies, understanding and response to EEP. The focus was on the role and contribution of the different role players, both designated and non-designated groups, as well as management's support for the whole process, in communication and ensuring employee participation. The literature review has revealed that both designated and non-designated groups still have negative perceptions of one another, where designated groups are uncomfortable with the stigma of being labelled 'EE candidates'. On the other hand, the designated groups still have fears of losing their jobs, and hence display some resistance in empowering the non-designated group.

Strategies towards implementation of EE, especially in attempting to address the negative perceptions, were also discussed. This was based on advice from other researchers, as well as other organisations' best practices. EE Plans and Affirmative Action measures, provision of reasonable accommodation, individual employees' contributions and the organisation's role were looked at as strategies for implementation of EE. Consideration here was in terms of complementing one another towards the ultimate achievement of EE objectives.

CHAPTER 3

LEGISLATIVE FRAMEWORK FOR EMPLOYMENT EQUITY IN SOUTH AFRICA

3.1 INTRODUCTION

The previous chapter covered the literature study on determining measures that can be used towards implementation of Employment Equity Program (EEP) in the public service. The impact of a work environment conducive to implementation of EE was considered. It was noted that the historical background of the previous regime was based on discriminatory and unfair labour practices that exacerbated inequalities. It was identified that there are strategies that can be adopted to enhance implementation of EE; hence this chapter, which will focus on the legislative framework that supports these strategies.

3.2 LEGISLATIVE FRAMEWORK AND POLICIES FOR TRANSFORMING THE PUBLIC SERVICE

In 1994 the new democratic government had to actively intervene in order to promote social justice and eradicate inequalities in the work environment. Coetzee and Vermeulen (2003:17) refer to the need for government intervention in bringing strong measures against discriminatory practices for the realisation of true equality and equity. Zulu and Parumasur (2009:1) agree about the importance of enhancing legislative institutional and policy instruments for correcting the historical injustices perpetuated against black people, Indians, Coloured and Chinese people, women and people with disabilities. Kunene (2005:28) supports the importance of enacting non-discriminatory laws aimed at eradicating racial and other forms of discrimination in the work environment.

In an effort to redress the hardships experienced by designated groups, the South African government passed a series of employment laws to mandate, among other things, affirmative action. The legislative framework will be discussed below in order to contextualise the implementation of EEP in the work environment.

South African labour laws conform to the *Constitution of Republic of South Africa, 1996*, which is the supreme law of the country; this means that any law or organisational policies and procedures inconsistent with it are invalid.

The White Paper on the Transformation of Public Service was issued in 1995 as one of the government strategies to accelerate transformation in the public service. Although it was implemented before the Constitution had been finalised, it should be noted that it is fully aligned to Constitutional principles.

3.2.1 The White Paper on the Transformation of Public Service (WPTPS) (1995)

The main objective of the WPTPS was to accelerate transformation in the public service in order to fulfill the role of efficient service delivery to the South African community. In order to fulfill its democratic government role, a coherent, representative and capable public service needed to be established and maintained. However, Hercules (2001:12) warns that too much emphasis on representivity, where the focus is based on race, might contradict the government's transformational initiatives in building social unity across the arbitrary divisions created by apartheid. This view has, however, been questioned. The main intention of the WPTPS was on transforming the public service in terms of efficient service delivery, in contrast to the high number of service delivery protests by ordinary community members. The notion of service delivery in this case emphasises an understanding of the needs of the community being served.

Chapter 2 of the WPTPS outlines the government's mission as "the creation of a people-centered and people-driven public service which is characterised by equity, quality, timeousness and a strong code of ethics". It has been noted that for the government to realise this mission there is an urgent need to create a public service work environment that will support it. This in turn calls for a committed leadership with a proactive, coherent and visionary approach in order to identify and ensure the implementation of interventions that make for a conducive work environment.

Chapter 3 of the WPTPS focuses on identification of areas of concern that have a negative impact on the work environment in the public service, that result in poor service delivery. Section 3.1 of WPTPS identified some of the difficulties within the public service structures, ranging from lack of representivity of all the people of South Africa, a management style that did not encourage employee innovation or participation, the generally low employee morale operating in an environment with no career opportunities or training and development. These areas of concern have a direct impact on the conduciveness of the work environment to enhance implementation of EEP.

The WPTPS therefore calls for interventions integrated into a comprehensive plan in order to implement measures that can be used to implement EEP and create a conducive work environment. It is noted that adversarial working conditions should be radically approached to accelerate the achievement of transformational initiatives.

Chapter 5 of the WPTPS outlines government transformational priorities and processes for moving towards its vision of a representative workforce, efficient service delivery and to have a workforce that is accountable and responsive to the needs of South African citizens. The workforce profile should be aligned to the recipients of public services, with specific reference to communication with the community in order to understand their needs. Sebola (2009:1107) raises a further concern, namely constitutional contradiction, where representivity is more emphasised than individual abilities, and ignoring the promotion of efficient, economic administration. This concern calls for a balanced approach when addressing representivity. The rationale behind the emphasis on representivity should be understood in the context of service delivery based on communication in addressing specific needs of the recipients of public services.

Chapter 9 of the WPTPS deals with institution-building and management of resources in order to fulfill the government of national unity's vision and mission. The emphasis is on creating a conducive work environment that is empowering and motivating to enhance productivity, as well as responsive to the potential challenges of change processes. The strategies of a conducive work environment include a move to adopt a decentralised management responsibility in order to make

management accountable. This means that there must be flexibility, autonomy and resource control in order to ensure a high level of accountability to maximise management decisiveness and commitment.

Part of public service transformation advocated by the WPTPS relates to the need for participative organisational structures that move from focusing on the application of rules to creative use of consultation and teamwork. This calls for a cultural change in introducing creative solutions to build a conducive work environment and improved service delivery. Diversity management is essential to maximise the benefits of cultural change and management of innovative ideas, as well as new ways of thinking that would lead to a conducive work environment, including the provision of reasonable accommodation to both designated and non-designated groups.

Chapter 10 of the WPTPS provides guidelines for implementing affirmative action programmes within the public service. The White Paper emphasises a proactive approach, which requires special measures taken to identify the needs of the disadvantaged groups.

The proposed first step is to ensure that people from disadvantaged groups are identified and appointed through proper procedures at all levels of the public service, with the aim of achieving representativeness and improved service delivery. Based on the Departmental workforce profile, areas that are underrepresented must be identified and consideration given to appointing disadvantaged groups in an orderly manner. It also recognises perceptions resulting from appointments of designated groups without following correct procedures, driven only by achieving targets. In addition, a question may arise on how to ensure representivity in areas that are dominated by a certain race group. This argument is based on attempts to balance representivity and service delivery. De Vos (2010:2) supports this by referring to the case of *Barnard vs SAPS*, where the judgement highlighted the importance of striking a balance between affirmative action and service delivery. The point is to ensure that service delivery is not compromised by leaving a post vacant despite a qualified and competent person being available because he/she is from a non-designated group.

The second step outlined in the WPTPS relates to the need to take into account different levels of skill, qualifications and experience of potential affirmative action appointees. Part of the special measures proposed is that of identifying people with potential and exposing them to accelerated and intensive training programmes aimed at upward mobility (fast-tracking). The implementation of this measure is a challenge which results in different interpretations or even distortions, which often end up nullifying the intended objectives. If properly planned and implemented it forms part of critical strategies towards implementation of EE. Jaarsveld (2008:639) confirms this by warning that ad hoc implementation of EE is insufficient to justify an affirmative action appointment without demonstrating clear intentions. This presupposes the development of a plan with clearly outlined objectives and timelines.

A difficulty often experienced in the public service is the implementation of some of the supporting programmes in the implementation of EE, such as succession planning, career planning and retention programmes. These programmes form part of the strategies of accelerating and empowering designated groups. It has been noted that there are various factors that hinder the effectiveness of programmes like these, one example being the highly-regulated public service, which often makes implementation difficult. Moti (2011:8) mentions a need to introduce a precondition of competence management in a regulated public service environment. He also acknowledges a need to integrate such a programme into public administration strategic reform, in order to complement human resource policies that would assist in relaxing a highly-regulated work environment (E-dictionary, undated: on-line).

The WPTPS emphasises the importance of developing a detailed affirmative action plan with clear goals, objectives and timelines. All the designated employers are required to develop this plan. The Paper recognises that the Department of Justice and Constitutional Development (DOJ&CD) has developed its Five Year EE Plan (DOJ&CD EE Plan: 2005 – 2010:1) with the following clear goals and objectives:

- Create a department that is broadly representative of the South African Population;

- Advance people from designated groups through an Affirmative Action Programme;
- Set Affirmative Action targets for the department;
- Remove any form of unfair discrimination in the workplace;
- Eliminate injustices of the past that disadvantaged people from the designated group; and
- Improve service delivery to the public.

These objectives show that the objectives of the DOJ&CD EE Plan are aligned to the vision and mission of the government in transforming the public service. The impact of the Plan still needs to be assessed to determine the achievement of the objectives, and implementation of interventions for continuous improvement of the work environment. Andres, Scope and Yard (2008:13) acknowledge the importance of continuous improvement of the work environment within the public service, recognising the need to understand end-to-end processes. The emphasis is on changing the enhance and familiar models, beginning with changing the perspectives that people are attached to, and giving them a sense of identity and also generating a feeling of the inevitability of change.

3.2.2 The Constitution of the Republic of South Africa, (1996)

The *South African Constitution, 1996*, is regarded as the supreme law of the country and all its obligations must be fulfilled and fully complied with. It forms the basis of all legislation and policies.

Leonard and Grobler (2006:3) provide a brief background on the policies of the apartheid government in terms of social segregation by race, where white people held a privileged place in the workplace as well as in the general society.

The *South African Constitution, 1996* requires measures to be put in place to affirm the previously disadvantaged. Section 9(2) of the Constitution stipulates that “equality includes the full and equal enjoyment of all rights and freedoms”. It is thus critical that organisational policies and practices are developed in terms of ensuring the practical application of equal rights and freedoms. While most organisations do

indeed have policies that include EE in compliance with Constitutional requirements, the greatest challenges often lie in the implementation.

The Bill of Rights has been declared a cornerstone of democracy in South Africa. It enshrines the fundamental rights of all people and affirms the democratic values of human dignity, equality and freedom. The realisation of these rights is the duty of the state, which has an obligation to respect, protect, promote and fulfil the rights listed in the Bill of Rights (South Africa 1996:6). Isaaks (2008:43) maintains that equality, as intended in the Constitution, requires an investigation of the actual social and economic circumstances of groups and individuals. In the transformational context equality needs to be considered in line with the provision of preferential treatment of formerly disadvantaged groups. Milne (2009:974) contextualises this by referring to Section 195(1)(i) of the Constitution, which emphasises broad representivity in the public administration based on employment, and people management practices that focus on ability, objectivity and fairness.

Section 9 of the Constitution promotes non-discriminatory and fair discriminatory practices. Emphasis is placed on direct or indirect unfair discrimination on one or more grounds, including race, gender, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. Significant progress has been made in elimination of unfair discriminatory policies, procedures and practices in the work environment. The notable difficulty is in practical implementation. Matshikwe (2004:88) relates a number of conspicuous discriminatory decisions made by employers based on irrelevant personal characteristics instead of work performance merit. In order to accelerate the total elimination of unfair discrimination and promote fair practice, the Constitution calls for the enactment of national legislation that will prohibit unfair discrimination, as well as promote Constitutional principles.

3.2.3 Employment Equity Act, 55 (1998)(EEA)

Since this study focuses on the implementation of EEA in the Public Service, the discussion on EEA will be limited to the chapters that deal with EE implementation.

In the overview of the EEA in relation to legislative requirements from the designated employers, Chapter 1 of the Act outlines the purpose; Chapter 2 sets forth the prohibition of unfair discrimination; Chapter 3 addresses the duties of designated employers in terms of workplace analysis, consultation, compilation of an EE Plan and the annual progress report submitted to Department of Labour.

3.2.3.1 Purpose of EEA

The objectives of EEA are related in Chapter 1, where the emphasis is on promotion of equal opportunities and fair treatment in the workplace. Human, Blues and Davies (1999:30) support this, stating that equal employment opportunity is the provision of an environment which enables all individuals to realise their full potential. The second important objective is based on equitable representation of designated groups in all occupational levels and categories. The Act emphasises the need to identify and implement affirmative action measures in order to realise these objectives. This highlights the importance of providing support to EE appointees through implementation of AA measures.

The objectives of EEA are based on the principles of the Constitution and compliance with International Labour Organisation Convention (No. 111) regarding discrimination in respect of employment and occupation. From this it can be deduced that for the work environment to be declared conducive, a critical principle is for it to be non-discriminatory, fair and equitable.

3.2.3.2 Non-Discrimination in the work environment

Chapter 2 of the EEA emphasises non-discrimination in the work environment and differentiates between unfair and fair discrimination: fair discrimination gives preference to the application of affirmative action measures in order to achieve the objectives of EEA.

This Chapter also emphasises eradication of inequalities and unfair discrimination or treatment. The focus is on policies and procedures or practices, with specific reference to recruitment processes, promotion, training and development,

compensation, employee service benefits or any other employment-related practices or processes. Since the employer is responsible for ensuring that the work environment is conducive to enable employees to perform, the employer is also responsible to make sure that policies, procedures and practices are non-discriminatory. It has been noted that tackling discrimination in the workplace is indeed a legal obligation for all employers, but it is also value-adding for business in terms of getting the best out of employees and reducing the potential for costly complaints and disruptions (E-dictionary, undated: on-line).

3.2.3.3 *Affirmative Action measures*

Chapter 3 deals with affirmative action (AA) objectives and processes. These measures are meant to provide reasonable accommodation to designated groups in order to remove any possible EE adverse impact. The processes of affirmative action focus on the promotion of diversity management in terms of ensuring the appointment of a workforce that reflects the demographics of the country. Affirmative action measures begin with the acknowledgement that designated group never had fair opportunities in the work environment, including exposure to quality education and training. It is therefore essential for the employer to ensure that the work environment is conducive to enabling the designated group to realise their potential.

The procedural and substantive guidelines for implementing AA measures are outlined in this Chapter, and the following discussions will highlight critical areas regarding implementation of AA measures in order to achieve EEA objectives:

Section 16 of EEA provides guidelines for the formation and functioning of the consultation process. Consultation has been identified as one of the fundamental processes in transforming the work environment and ensuring that all employees, including non-designated people, trade union and management participate in making it conducive. The participation of the EE Forum remains questionable in terms of active and equal involvement of all stakeholders. Esterhuizen (2008:44) acknowledges the importance of the consultation process, and warns that employers should consult in good faith and not just 'go through the motions'. It has also been

noted that trade unions believe in being given equal status with management when talking about employee issues, to the extent that the consultation processes are perceived to nullify union powers, as opposed to the negotiation process as directed in the *Labour Relations Act, No. 66 of 1995*.

Section 20 requires employers to develop EE Plans. This is preceded by the conducting of EE audits to identify adverse impact that may hamper implementation of EEA objectives. The purpose of the audits is to assess the existence discriminatory practices, policies and procedures, as well as to identify categories and levels that are under-represented.

The outcomes of EE audits inform the areas that need attention, and forms part of the EE Plan, whereby employers should develop an action plan on how the identified adverse impact are to be addressed. A comprehensive document is compiled listing all the identified adverse impact and giving strategies to address them; the focus then shifts to the implementation of identified interventions. Jaarsveld (2008:639) emphasises the importance of developing EE Plans before implementing affirmative action measures as proof that an employer's decision was well-planned, and not an impulsive one to discriminate against others.

Section 21 requires employers to submit an annual progress report. This provides information on qualitative and quantitative analysis, where the qualitative analysis focuses on the implementation of affirmative action measures. The quantitative analysis addresses progress made in ensuring that the workforce profile is fully represented in terms of reflecting the demographics of the country. The Department of Labour's focus has been more on statistical analysis, with little attention being given to the qualitative part. This has created a big problem, with the appointment of non-designated employees to meaningless positions, or to positions without necessary support. It is thus crucial to enhance other strategies to empower them and monitor the allocated tasks to ensure maximum realisation of individual potential. Milne (2009,986) refers to the former Minister of Public Service and Administration, Fraser Moleketi's statement regarding the importance of creating opportunities for designated groups and not to focus on number issues only.

In terms of Section 24 the designated employers are expected to assign a more senior manager to be responsible to monitor and implement the employment equity plan. Jongens (2006:36) emphasises the importance of management commitment in terms of implementation of EE, that it should not be the responsibility of one manager but of all. Although the recommendation is to appoint a senior manager who reports directly to the Director General, it is not often adhered to in practice. In most cases the responsibility is assigned to a middle manager with minimum influence in top management for making a significant transformational impact on employment equity issues.

Sections 25 and 26 emphasise communication in terms of ensuring that employees are made aware of the provisions of the Act, the EE Plan and Report, as well as proper record management of all the necessary EE information. Effective communication in this instance requires ongoing communication where all stakeholders, such as managers, employees and trade unions, are informed about organisational EE Plans, including progress made (E-dictionary, undated: on-line).

3.2.4 The White Paper on Affirmative Action in the Public Service (WPAAPS) (1998)

The purpose of WPAAPS was to set out mandatory requirements to develop and implement affirmative action programmes within the public service. Chapter 1 identified employment inequalities characterised by ineffectiveness, unfair discrimination and division on the basis of race and gender within the Public Service. Transformation within the public service thus became one of the priorities in terms of the appointment of a workforce that broadly represents the public service. The major drive has been to ensure a transformed, effective and efficient Public Service that is capable of delivering equitable services to all the citizens, as outlined in the WPTPS and EEA.

Affirmative Action has been adopted as one of the corrective steps necessary to fast-track the achievement of broad representation within the Public Service. The target groups are black people, women and people with disabilities.

Chapter 2 provides guidelines for building an environment that supports and enables previously disadvantaged groups to fulfill their maximum potential within the Public Service. The core principles of affirmative action emphasise the integrated human resource management and development, with specific reference to diversity management. Furthermore, the focus is on principles that promote efficient service delivery to ensure that through affirmative action measures productivity is improved. The other major principles relate to employee participation and communication of affirmative action policies and programmes.

Chapter 3 emphasises the importance of utilising affirmative action as a tool for achieving the organisation's strategic and operational goals. The achievement of these goals requires the active participation of all role-players, especially line managers, supervisors and human resource practitioners. The implementation of affirmative action measures in the public service has to be consistently applied, in line with the mandatory requirements.

These requirements stipulate the content of affirmative action programmes, namely, numeric targets, employee profile, affirmative action survey, management practices review, performance management, affirmative action plan and allocated responsibilities on specific roles and policy statement. It is believed that all these are essential aspects in the work environment that could lead to implementation of EEA. Wessels (2005:10) describes affirmative action as "an intervention that is visible in the form of compensatory programmes, laws or activities; universal criteria; the recruitment, employment, and advancement of qualified members of historically disadvantaged groups; preferential treatment of certain individuals or groups; organisational audit and the monitoring of policies".

Chapter 4 provides a basic framework for implementing affirmative action policies. The Department of Public Service and Administration (DPSA) plays a facilitating role in supporting other government Departments to develop and implement AA policies. The DPSA facilitation role includes a Public Service-wide communication campaign aimed at informing public servants about the goals, objectives and principles as set out in the WPTPS; they also provide practical guidelines for developing affirmative action programmes by building on current best practices within the Public Service.

The DPSA will also facilitate the enhancement of network affirmative action practitioners to encourage information-sharing on best practices, and thereby improve the implementation of AA programmes. They should also identify and abolish rules and regulations which unnecessarily restrict affirmative action activities and initiatives.

The other essential role of the DPSA is to evaluate the effectiveness and achievement of AA programmes and provide progress reports to the Parliamentary Portfolio Committee. This Committee will in turn scrutinise the report and impose sanctions where implementation failures are identified.

The WPAAPS makes provision for incorporation of the implementation of affirmative action responsibilities in the performance contracts of all managers within the Public Service. Pretorius (2001:13) advises that the interpretation of EEA should be done in compliance with the Constitution and the International Labour Organisation Convention (No. 111). The emphasis is on promotion of non-discriminatory practices or policies in the work environment, to ensure full equal enjoyment of all rights and freedoms. On the other hand, with all the efforts geared towards providing opportunities to designated groups in terms of career advancement, it should be noted that, given the circumstances that these people were exposed to, they may not necessarily be ready to assume some of the positions. This necessitates remedial programmes to bring them on par with the other, more privileged, groups. For this purpose other enhancing legislation was developed, such as the *Skills Development Act*, and this will be briefly discussed in the next section.

3.2.5 Skills Development Act, No 97 (1998) (SDA)

The government promulgated the *Skills Development Act No 97 of 1998* immediately after the *Employment Equity Act, No 55 of 1998*, where its focus was on addressing historical skills and educational disparities. Ajani (2005:73) provides a reminder that the institutional cultures of historically black and white higher education institutions are frequently cited as the main obstacles to increased diversity, which further contributed to educational imbalances.

Section 2 (1) of the Act outlined its purpose as:

- To develop the skills of the South African workforce by improving the quality of life, as well as ensuring prospects of workers in order to enhance labour mobility. These are based on improving employee performance and enhancing service delivery
- To encourage employers to use the workplace as an active learning environment where employees are provided opportunities to acquire new skills. The Act recognises the need to 'go the extra mile' in accommodating designated groups in assisting new entrants and the people who find it difficult to be employed
- To encourage workers to participate in leadership and other training programmes to empower the designated group to manage and execute their functions
- To improve the employment prospects of persons previously disadvantaged by unfair discrimination, and to redress those disadvantages through training and education

According to Groenewald (2006:42) skills development of employees is a key driver to the achievement of employment equity objectives. The EEA regards skills development of designated groups as an affirmative action measure, where development and training are key to enabling designated groups to advance to equitable representation in all occupational categories. This is to ensure a better quality of education and training within the workplace that is related to skills and competencies relevant to the jobs.

Based on this it can be deduced that the SDA forms part of transformational legislation that enhances implementation of EEA in order to eliminate lowering of individual performance standards. The integration of EEP and Skills Development Programme (SDP) is essential to service delivery.

3.2.6 Basic Conditions of Employment Act, 75 (1997) (BCEA)

The purpose of this Act is to advance economic development and social justice by giving effect to the right to fair labour practices conferred in Section 23(1) of the

Constitution. This Act acknowledges the discriminatory practices previously endured by employees in the work environment, hence the enhancement and enforcement of basic conditions of employment. Zondi (2009:48) concurs, emphasising the necessity of legislation that supports the conduciveness of the work environment to ensure fair labour practices by making provision for the regulation of basic conditions of employment.

The Act forms part of transformational processes where provision is made for reasonable accommodation for designated groups, with specific reference to maternity leave for working women. Section 25(1) provides for maternity leave where the health of pregnant women is taken into account. Section 26(2) requires the employer to offer pregnant women “suitable alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment.” Jongens (2006:9) refers to discriminatory practices that still prevail in some organisations, where there is no flexibility in accommodating women with regard to their family roles and needs.

Another basic provision of the BCEA relates to cultural and diversity issues, where reasonable accommodation is provided for family responsibility leave. Section 27(2)(c)(ii) requires an employer to grant an employee three days family responsibility to attend the death of “the employee’s parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling”. The leave section in the Act makes provision for other leave entitlement to all employees; the maternity and family responsibility leaves are mentioned here as they relate more to designated groups. The rationale is based on ensuring that the work environment is accommodative of employee circumstances, given the historical background of discriminatory policies and practices.

Part C of the BCEA addresses issues of discrimination in the work environment based on the rights of every employee. Section 79(2)(c) stipulates clearly that employees should not be prejudiced based on “past, present or anticipated”. This Section enforces equal treatment of employees and negates any decisions that are based on historical background that may disadvantage a designated group. This is based on the impact of decisions which may create animosity to an extent where the work environment may not be conducive for designated groups to realise individual performance.

3.3 SUMMARY

The legislative framework discussed in this chapter is, clearly, based on government efforts to transform the work environment. The importance of conduciveness in the work environment has been acknowledged, especially in terms of the enhancement of regulations to enforce changes that contribute to efficient service delivery. The WPTPS commenced with the identification of the actual challenges in the public sector that contribute to poor service delivery, and the legislative framework was developed to address them. The Constitution has been acknowledged as the cornerstone of democracy where the principles of basic human rights directs the work environment to ensure non-discriminatory, equitable and fair treatment of employees with specific reference to designated groups. The transformation of the public service became one of the key priorities of government, centred on the needs of the citizens receiving quality service. It has been noted that public service transformation requires a representative workforce that will be in a position to understand the needs of the people they serve. The transformational legislative framework objectives were based on Constitutional principles and the problems identified in the public service. The labour laws outlined in this chapter provide guidelines on promoting non-discriminatory practices, policies and procedures. They also prescribe for the importance of creating a fair and equitable work environment in order to realise the goals and vision of democratic government.

These legislative requirements acknowledged the hardships previously experienced by designated groups and made provision for strategies for the implementation of affirmative action measures, provision of reasonable accommodation, EE representivity and diversity management. It can therefore be reasonably hoped that the implementation of the legislative framework will result in a conducive work environment. It is, however, essential to explore further the reasons why it continues to be difficult to implement EE in spite of the supporting legislative framework being available and accessible.

CHAPTER 4

RESEARCH ANALYSIS AND INTERPRETATION OF RESULTS

4.1 INTRODUCTION

The legislative framework on employment equity as discussed in the previous chapter has demonstrated the government's commitment to transform and create a conducive work environment. This chapter will describe the research design and methodology, to justify the manner in which data collection was handled. It will also report findings of the investigations on perceptions of employees at DOJ&CD on the effectiveness of EEP within their work environment. Employee perceptions will be determined by using questionnaires and conducting semi-structured interviews. The results will then be aligned to information gathered in chapter 2 and 3 in order to respond to the research question of this study.

4.2 RESEARCH DESIGN

Leedy and Ormrod (2005:2) defined research as a systematic process of collecting, analysing and interpreting data in order to increase an understanding of a phenomenon in which a person is interested. Research is a diligent search for information aimed at discovery of new facts to enhance the existing practice or theory. There are different reasons for conducting research, depending on the objectives of the research problem. In this study the research objective is based on investigating measures that can be used to enhance and create a conducive work environment to implement EEP. It is therefore necessary to conduct a survey to source information regarding employee perceptions on the implementation of EEP. Once employee perceptions are determined, the possible relevant measures will be identified that will enhance a conducive work environment to ensure implementation of EEP in DOJ&CD.

The researcher believes that both quantitative and qualitative methods will be required to adequately address the research question. Warfield (2005:30) supports the utilisation of mixed methods, and notes that the validity of the findings of two or

more research methods enhances the belief that the results are valid and not artificial results of a single methodology.

Eysenck (2004:2) provides a distinction between quantitative and qualitative methods: the information collected from the former is expressed by participants in a numerical form, while that from the latter is based on experiences of participants and on the stated meanings they attach to themselves, to other people, and to their environment. It is therefore held that statistics will give an indication of the number of employees who perceive the implementation of EEP as effective; while the qualitative research method will provide management's interpretation of the value that EEP adds to Departmental service delivery.

4.3 EMPLOYMENT EQUITY STRUCTURAL BACKGROUND

Esterhuizen (2008:44) notes that the legislative requirements oblige a designated employer to consult with all employees on EE matters. In compliance, the DOJ&CD established structures responsible for monitoring the implementation of EEP. Employees from different levels are represented, and they are referred to as the Employee Advisory Committee (EAC). The researcher utilised these established EACs as participants to gather information for this research study.

Reference has been made (section 4.2.1) to management's responsibility for ensuring a conducive work environment for the employees. The researcher identified the other target group as management representatives from each branch, by virtue of the responsibility given to them within the work environment.

For the purpose of this study the departmental branches are grouped into five in order to make the consolidation of information easy and without compromising the validity of the research results: Court Services, Corporate Services, Director-General's Office, Legislative and Constitutional Development and Master of High Court.

4.3.1 Sample

Babbie and Mouton (2001:175) describe the purpose of sampling as the selection of a set of elements from a population where the selected elements accurately portray the population. A survey sample has been used in order to draw inferences about the population due to scientifically proven difficulties of studying the whole population (Kerlinger, 1986:378). In this study the sample was selected on the basis of involvement in the Departmental EEP. I am confident that the selected sample will provide a clear picture of the views of DOJ&CD employees and management.

Swanson and Holton (2005:2) also encourage using a small group to make inferences about a larger group, also referred to as generalisability. The researcher chose a sample consisting of 50 Employee Advisory Committee representatives from nine regions and National Office. Stroker (1989:102 & 113) maintains that it is essential that the sample should in all respects be a true image or reflection of the population. It is therefore believed that the chosen sample will provide a fair representation of the views of the Employee Advisory Committees, where a committee is composed of a maximum of 10 members.

The researcher selected this sample based on the fact that this committee has been nominated by employees and management to monitor effective implementation of EEP in their respective regions and branches. The other sample group was selected from National Office where three representatives from either senior or middle management were targeted for semi structured interviews to determine their perceptions of the value that the EEP adds towards Departmental service delivery.

According to Welman and Kruger (2001:65) the sample from which the information is obtained is often smaller than the original research subjects. This is due to various factors, such as refusal to participate, incomplete questionnaires, etc. It is therefore advisable that the size of the sample be large enough to reduce the sampling error and to reduce bias. For this reason the researcher decided to select an almost 50% sample size from the research subjects.

4.3.2 Population and sample of respondents

The population group for the study was the officials in DOJ&CD. The focus was on both employees and management. The target group was representatives of employees nominated to serve in Employee Advisory Committees (EACs). These Committees have been established at both regional and national levels, and are composed of a minimum of ten members, which gives a total population of 100 EAC members.

Another research subject has been drawn from senior and middle management levels from a total population of five branches at National Office. The researcher believes that the views of a minimum of one manager in each branch will provide a true reflection of the views of management on how EEP is understood and implemented in the branch. The management levels included both middle and senior management. The sample was chosen to reflect race and gender. These groups have been targeted in order to reach a broader pool of employee perceptions throughout the Department.

4.3.3 Location of data collection

The researcher chose the employees of DOJ&CD based on the nature and type of information needed to respond to the question: "how effective is the implementation of EEP within DOJ&CD?" The only people that can truthfully respond to this question are those that are employed and operate within the DOJ&CD work environment. The researcher chose a convenient method of data collection for the sake of the targeted group, as well as the reliability of the information. Mouton (1996:111) regards the outcome of research as a set of data that is reliable, which is said to be synonymous with stability or consistency over time.

4.4 DATA COLLECTION INSTRUMENT

Wessels and Pauw (1999:372) encourage using various sources and methods in order to produce valid knowledge about the object of enquiry. This led to the adoption of a number of data collection methods. Questionnaires constituted a large part of the data-collection, and assisted the researcher in reaching the greatest

number of respondents. Kunene (2005:49) notes that the use of questionnaires is regarded as the fundamental research instrument that allows the researcher to sample the perceptions of the largest possible number of employees.

Two sets of questionnaires were developed; one was quantitative, designed for EAC members with directed statements, which required ticking of the appropriate response in the space provided. The other questionnaire had a set of semi-structured questions, which allowed flexibility, and where participants were required to elaborate by indicating their interpretation of the value that EEPs add to Departmental service delivery.

4.4.1 Interviews

It has been noted that both qualitative and quantitative data collection methods are concerned with the individual's point of view. However, the qualitative method allows closer interaction between the researcher and the participants through detailed interviewing and observation. Gardner (2010) defines the interview as "a two-way communication, initiated by an interviewer, for the specific purpose of obtaining research-relevant information, and focused by him on content by the research objective of description and explanation".

Semi-structured questions were compiled that focused on enhancing the value of EEP on Departmental service delivery. Due to the busy schedules of management, it became necessary for the researcher to make appointments with managers, and 20-minute interviews were conducted with three managers.

4.4.2 Ethical Issues

The researcher telephonically contacted the Regional Human Resource Directors, as they are based in different provinces. The purpose was to clarify the purpose of the study, gather support and request their assistance in distributing the questionnaires in their respective offices.

This strategy yielded positive responses from seven regions out of nine. Several follow-ups were made with the other two regions, namely Gauteng and Free State. The researcher noted the implications of non-submission of these two regions and considered other possible options. The deadline was extended, but still only 20% responses were received from Gauteng Region while the Free State Region increased to 60%. Due to time constraints, whereby no further extensions could be entertained, the researcher took the decision to continue, as there was only one Region where the response rate was unsatisfactory.

The researcher's approach was based on principles of human dignity and respect, of ensuring voluntary participation and maintaining confidentiality as stated on the questionnaire. All questions and enquiries from participants were responded to and fully clarified. The researcher also responded to all the participants by thanking them for sacrificing their time to participate in the survey. The participants were encouraged to participate voluntarily, and anonymity was emphasised in order to encourage openness and honesty.

4.4.3 Request for permission

The researcher approached DOJ&CD management to request permission to gather information from employees. Permission was obtained from the Deputy Director-General: Corporate Services to conduct a survey. Questionnaires were distributed to employees by e-mail and management was interviewed using semi structured questions.

4.4.4 Distribution and return of questionnaires

The original arrangement was to make an appointment with management and conduct interviews. Due to the unavailability, 70% of managers opted to complete the questionnaire electronically and e-mail back to the researcher. The other 30% of participants were interviewed individually in their offices.

The researcher contacted the Human Resource Directors at the Regions and requested them to distribute the questionnaires to EAC members. In order to maintain anonymity, participants were allowed to forward completed questionnaires

directly to the researcher. The electronic method appeared to be convenient, timely and manageable, especially due to distances between the researcher and the participants from regions.

Telephonic and e-mail follow-ups were made to encourage participants' response. Appointments were also made with management to explain the importance of the study and individual contributions towards successful completion of the research.

A covering note contained an introduction and the instructions for the completion of the questionnaire, and was distributed by e-mail to participants at both National Office and regions. The aim was to request the respondents' participation, explain the purpose of the study and to assure them of anonymity, and confidentiality of the information to be supplied. Participation in the research was voluntary. Results were based on analysis of the returned questionnaires. Both the questionnaire and the interview questions required participants to provide demographic information, followed by instructions on the completion of the questionnaire.

4.5 DATA PRESENTATION AND ANALYSIS

The researcher designed semi-structured questions that needed qualitative responses, while the other questionnaire was divided into 11 dimensions based on statements that needed a cross (x) in the relevant block. Instructions to participants were outlined under Participant's Guidelines Sections in order to clarify and make the questionnaire user-friendly. Both the interview questions and questionnaire were preceded by a clear explanation of the purpose of the survey and its intended objectives.

The most frequently used scales of measurement were adopted in constructing the questionnaire. The unit of measurement was based on the Likert-type scale of one to five. In this scale a set of statements is presented to each of the respondents, who have to indicate one of the reactions (Huysamen: 1998). The scale requires the respondents to rate their level of agreement to various reactions ranging from strongly disagrees (SD), disagrees (D), neutral (N), agrees (A) or strongly agrees (SA). Participants have to make their choices based both on their experiences and

on what they perceive should be true. In addition, although some questions may appear to have a more obvious agree or disagree than other questions, the researcher is prepared to argue that the response that has been given is the only appropriate response to the question posed.

4.5.1 Response rate: Employee Advisory Committee (EAC)

The target group was chosen from among those who are knowledgeable about the subject, in order to ensure a meaningful contribution. The total number of EACs within DOJ&CD is ten, that is, nine regions and National Office, where each EAC is composed of 10 members. The researcher selected a target group of five EAC members from each Region; thus 50 people were expected to participate.

Table 4.1: Response rate against sample size

TOTAL QUESTIONNAIRE (SAMPLE SIZE)	TOTAL RESPONSES	RESPONSE RATE
50	44	88%

Of 50 questionnaires issued, 44 were returned. Also, some of the participants did not tick all the biographical boxes or statements. Table 4.1 reflects an overall satisfactory response of 88% participation from the targeted group.

The following is a breakdown of regional responses:

Table 4.2: Number of responses per location

Location	Responses	%
EAC: National Office	5	11.9%
EAC: Gauteng	1	2.4%
EAC: Limpopo	4	9.53%
EAC: Mpumalanga Region	5	11.9%
EAC: North West Region	5	11.9%
EAC: Northern Cape Region	5	11.9%
EAC: Western Cape Region	4	9.53%
EAC: Eastern Cape Region	5	11.9%
EAC: Kwa-Zulu Natal Region	5	11.9%
EAC: Free State	3	7.14%
Total	42	100%

Table 4.2 reflects an overall 100% participation from all ten regions, in line with the researcher's targets. A total of 42 respondents indicated their location. (Only two did not indicate a location.)

The response from the Gauteng Regional Office is the lowest at 2.4%; Free State Region at 7.1%; Limpopo and Western Cape at 9.5%. However, the overall participation was satisfactory as the exercise was voluntary.

4.5.2 Biographical Data

The biographical data is presented below, based on gender, race, post category and number of years' employed.

4.5.2.1 Distribution according to gender

A gender distribution has been provided in order to demonstrate the equitable representation of the participants.

Figure 4.1: Distribution according to gender

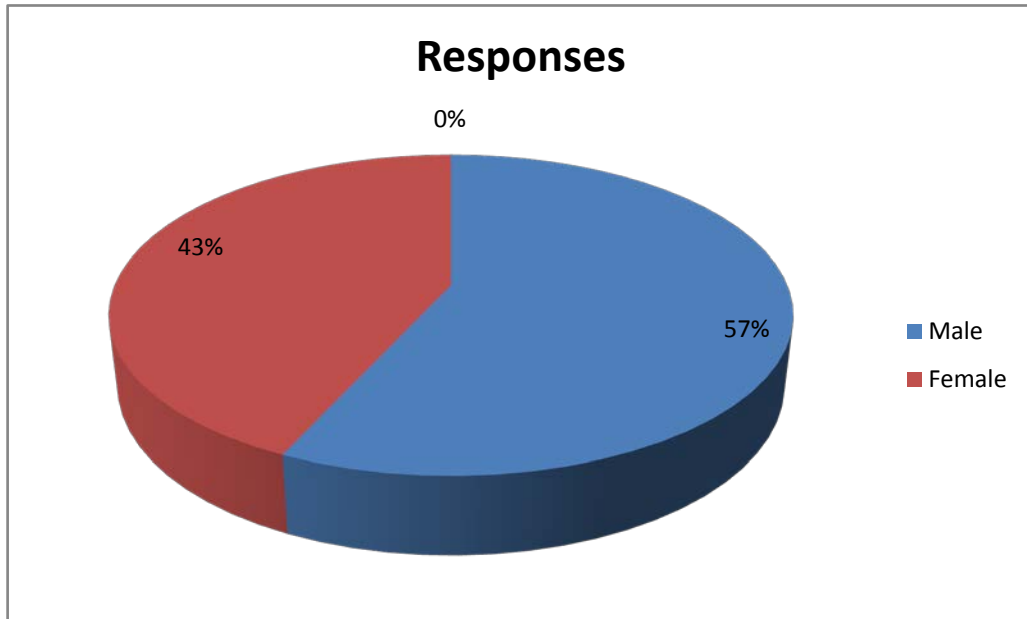
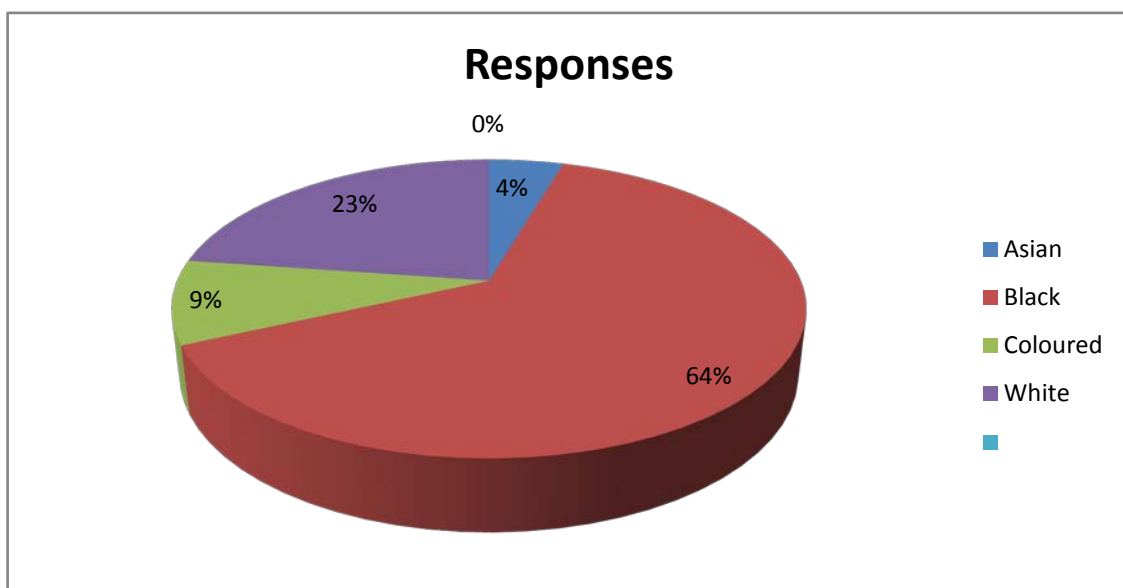


Figure 4.1 reflects that all the participants completed the gender table, and 57% of participants were male and 43% were females.

4.5.2.2 Distribution according to race

A breakdown of participants is provided below under Figure 4.2 accordance with race groups:

Figure 4.2: Distribution according to race

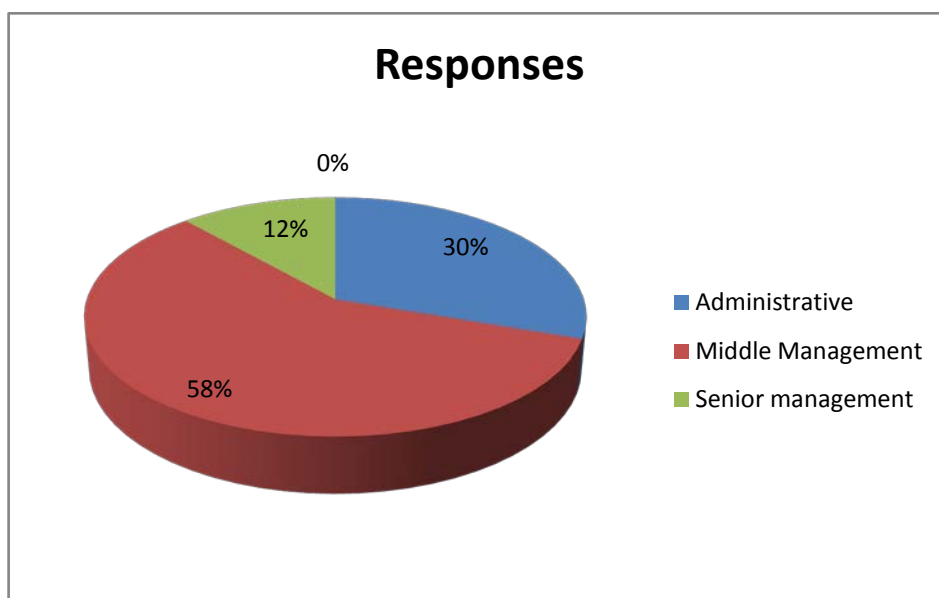


A breakdown of responses per race, shows the highest number of respondents (64%) was black people, followed by white people, (23%) then coloureds (9%) and the lowest Asians (4%). This profile reflects a diversified workforce profile within DOJ&CD, a balanced, fair and diversified workforce (Figure 4.2).

4.5.2.3 Distribution according to position

According to Figure 4.3. 58% of the respondents operate at middle management, and 30% are administrative employees and 12% of the respondents are in Senior Management. Section 16 of EEA requires a balanced representation of all levels within the EE Committee. Thus an indication that the Departmental EE Committee is composed of all levels, and as such, is compliant with the EEA.

Figure 4.3: Distribution according to position



4.5.2.4 Distribution according to years of service

The years of service of EAC members who participated in the survey range from 2 to 37. This provides confirmation that the respondents have been employed in the Department long enough to have some knowledge about equity employment issues. The table indicates that of 44 participants who returned the questionnaires 4 did not indicate their years of experience.

Table 4.3: Distribution according to years of service

Years of Service	Responses
2	3
3	4
4	6
5	6
6	1
8	1
9	2
10	2
12	1
13	1
14	2
15	2
16	1
17	1
20	2
21	1
22	1
30	1
31	1
37	1
Total	40

It can further be deduced that the participants have sufficient years of experience in the Department to be able to give a fair opinion of the Departmental work environment, as well as the implementation of EEP.

4.6 AVERAGE SCORE PER QUESTION IN THE CASE OF DIMENSIONS USED TO EXAMINE THE PERCEPTIONS OF EMPLOYEES

The researcher identified 11 dimensions that can be used as measures aligned to effective implementation of EEP, as directed by Employment Equity Act. The following dimensions were measured, utilising questionnaires based on EAC's perceptions of employees regarding the effective implementation of EEP:

- Understanding of the EE Programme
- Terms and conditions of employment

- Job assignments
- Work environment and facilities
- Training and development
- Promotions and transfers
- Implementation of EE Plan
- Corporate culture
- Racial equity headcount
- Remuneration and benefits
- Communication

These 11 dimensions are meant to investigate measures that can be used to determine the conduciveness of the work environment which would, to a very large extent, affect employee perceptions on the effective implementation of EEP within DOJ&CD.

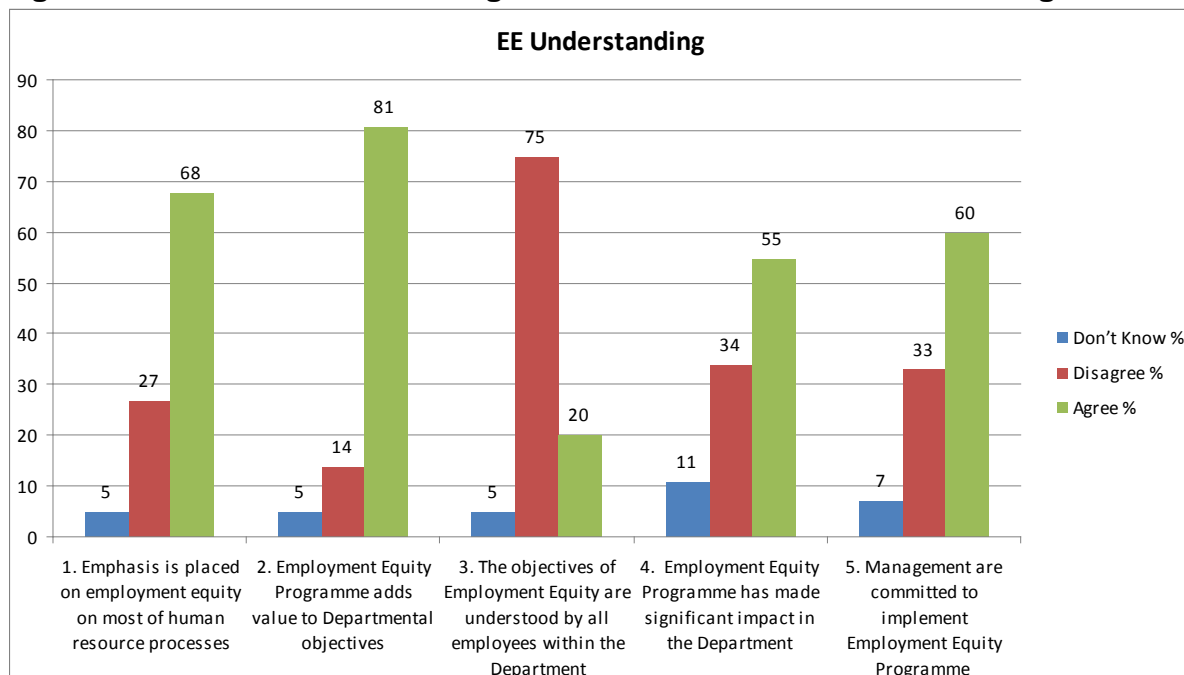
The next discussion will focus on how participants responded to the abovementioned dimensions. The 5-point Likert-type scale has been used, as outlined in 4.5.2 above. Different statements were used to measure employee perceptions on each dimension where the respondents rated their level of agreement by ticking the appropriate statement. The Likert-type scale included: “don’t know”, “strongly disagree”, “disagree”, “agree” and “strongly agree”. For purposes of proper analysis the responses have been grouped into three, namely “don’t know”, “disagree” and “agree”; where strongly disagree and disagree responses are grouped together; strongly agree and agree also grouped together.

The dimensions will be analysed and interpreted. A summary will be included after all the statements of each dimension discussed.

4.7 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: EMPLOYMENT EQUITY UNDERSTANDING

This sample statement is divided into five statements that were used to determine the perceptions of employees regarding the understanding of EE.

Figure 4.4 Distribution according to the statement: EE Understanding



4.7.1 Human resource processes emphasise EE needs

The statement was set against the background that EE cuts across all human resource functions in order to ensure equitable and fair treatment. 68% of the respondents agreed with this statement, while 27% disagreed and only 5% indicated that they didn't know (Figure 4.4).

4.7.2 Employment equity programme adds value to Departmental objectives.

Zondi (2009:92) adds that the implementation of EE is motivated by the desire to improve the quality and equity of service delivery. This statement was basically enhancing the perceptions in terms of employee understanding of the alignment of EEP to departmental objectives. 81% of the respondents agreed that the EEP adds value to departmental objectives, 14% disagreed and 5% indicated that they didn't know (Figure 4.4)

4.7.3 The objectives of employment equity are understood by all employees within the Department.

According to Jongens (2006:31) employees should understand their work environment, work harmoniously in a non-discriminatory and respectful manner. The employer, on the other hand, is also obliged to consult and communicate EE issues to all employees to create a conducive environment that supports the achievement of EEA objectives.

From the survey results 20% of the respondents agreed that EE objectives are understood by all employees within the Department, 75% disagreed and 5% indicated that they didn't know (Figure 4.4)

4.7.4 Employment equity programme makes a significant impact in the Department

Section 2.3 indicated that the fundamental impact of EE is measured in terms of transforming the public service to ensure efficient service delivery. The emphasis has been placed on equal representivity and a conducive work environment that is non-discriminatory and promotes equal opportunities. 55% of the respondents agreed with the statement that EEP has made a significant impact on the Department; 34% disagreed and 11% indicated that they didn't know (Figure 4.4).

4.7.5 Management is committed to implement the Employment Equity Programme

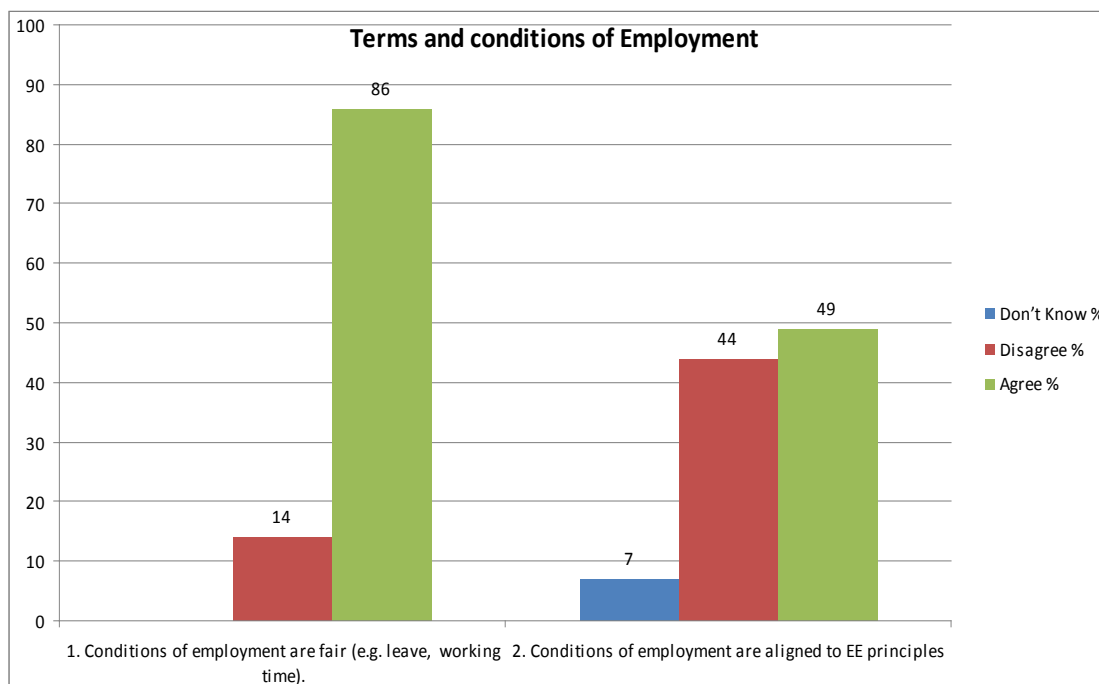
Section 3.3.4 identified management commitment as one of the critical success factors towards effective implementation of EEP. 60% of the respondents agreed with the statement that DOJ&CD management is committed to implement EEP; 33% disagreed and 7% indicated that they didn't know (Figure 4.4) It is interesting to note that of all five statements, the overwhelming response of 81% participants responded to the second statement and agreed that EE adds value to departmental objectives. However, the next highest response of 75% participants was under the third statement, where participants disagreed that EE objectives are understood by

most employees within the Department. The responses seem contradictory: however, further awareness of EE is necessary given the high number of 75% of respondents who disagreed with the statement.

4.8 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: TERMS AND CONDITIONS OF EMPLOYMENT

The terms and conditions of employment dimension focused on employee perceptions regarding conditions of employment and two statements were used:

Figure 4.5 Distribution according to the statement: Terms and Conditions of Employment



4.8.1 Conditions of employment are fair

Historically, conditions of employment in the public service were applied unfairly (Section 2.3). Section 3.2 has also emphasised the importance of treating employees fairly in order to enhance productivity. It is interesting to note a positive response from employees, where 86 % of the respondents felt that conditions of employment are fairly implemented within the Department and only 14% disagreed (Figure 4.5).

4.8.2 Conditions of employment are aligned to EE principles

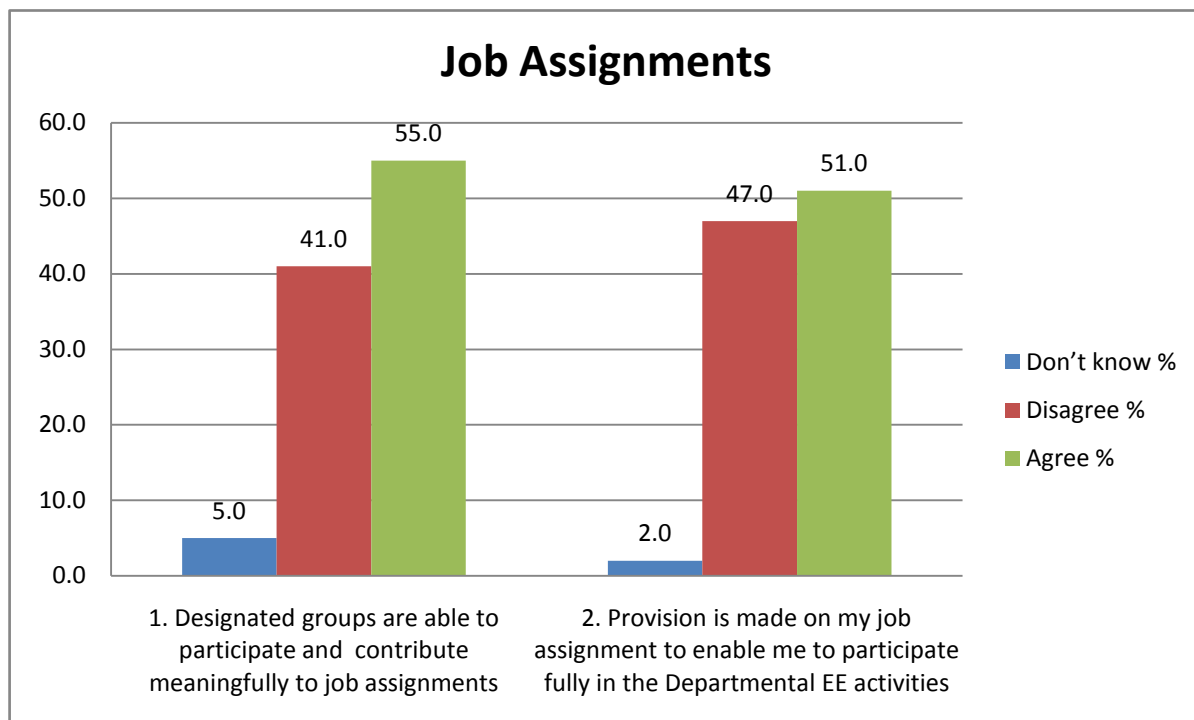
One of the objectives of the Employment Equity Act is to promote equal opportunity and fair treatment in the workplace. It thus stands to reason that all the conditions of employment must be aligned to EE requirements.

It is interesting to learn that 49% of the respondents agreed with the statement and 44% disagreed that conditions of employment are aligned to EE principles whereas 7.3% indicated that they didn't know (Figure 4.5). The responses are almost equally divided between those agreeing and disagreeing, which to a certain extent contradicts with the first statement in 4.9.1 where an overwhelming response of respondents indicated that conditions of employment are fair.

4.9 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: JOB ASSIGNMENT

The third dimension is on job assignment regarding the perceptions of employees on how meaningful they perceive the job allocated to them to be. The job assignment dimension has been presented in terms of utilising two statements to determine the perceptions of employees:

Figure 4.6 Distribution according to the statement: Job Assignments



4.9.1 Designated groups are able to participate and contribute meaningfully to job assignments

Andrews, Scopes and Yard (2008:4) emphasise the importance of improving public service, increasing fairness and devolving responsibilities to individuals. This requires full utilisation of resources, where the potential of employees is maximised to embrace service delivery. The designated groups should be allocated duties that embrace individual career growth, and should not be employed only to increase statistics for target achievement. 55% of the respondents agreed that designated groups are able to participate and contribute meaningfully to job assignments, 41% disagreed and 5% did not respond (Figure 4.6).

4.9.2 Provision is made on my job assignment to enable me to participate fully in the Departmental EE activities

51% of the respondents agreed with the statement that provision is made for individual job assignment to enable full participation in the Departmental EE activities. 47% participants disagreed, while 2% indicated that they didn't know (Figure 4.6).

The responses received from both statements reflect a positive perception regarding job assignment: that they are meaningful and provide job exposure to Departmental EE activities. Groenewald (2006:79) agrees with this, emphasising that employment equity can only be achieved if suitably-skilled workers are appointed at every level of an organisation in positions that have real decision-making powers.

4.10 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: WORK ENVIRONMENT AND FACILITIES

The fourth dimension relates to the creation of an enabling, accessible and user-friendly work environment and facilities, where four statements were used to enhance employee perceptions:

Figure 4.7 Distribution according to the statement: Work Environment and Facilities



4.10.1 Reasonable accommodation is provided for designated groups

The development of AA measures in providing reasonable accommodation to designated groups is important (Section 3.2.3.3). Tladi (2008:8) mentions the necessity of adopting AA as one of the strategies of addressing differences that existed during apartheid in South Africa where the designated groups were discriminated against and unfairly treated in the work environment. 52% of the respondents disagreed that reasonable accommodation is provided to designated groups; 43% agreed and 5% indicated that they didn't know (Figure 4.7).

4.10.2 Employees are allowed to work flexi working hours (where operational needs allow) to allow for special childcare needs

This statement arises out of the background that women employees have additional family responsibilities, so that employer support is necessary in order to create a work/balance lifestyle. Figure 4.8 reflects an overwhelming disagreement response, with 71% of the respondents indicating that employees are not allowed to work flexi-working hours to accommodate special childcare needs. 27% agreed and only 2% ticked 'don't know' (Figure 4.7).

4.10.3 I would recommend to a good friend this department for employment

This statement attempted to enhance employees' general satisfaction on how they view Department as an employer of choice. 68% of the respondents indicated that they would recommend DOJ&CD for employment to a good friend and 32% would not (Figure 4.7).

4.10.4 Diversity is promoted and properly managed within the Department

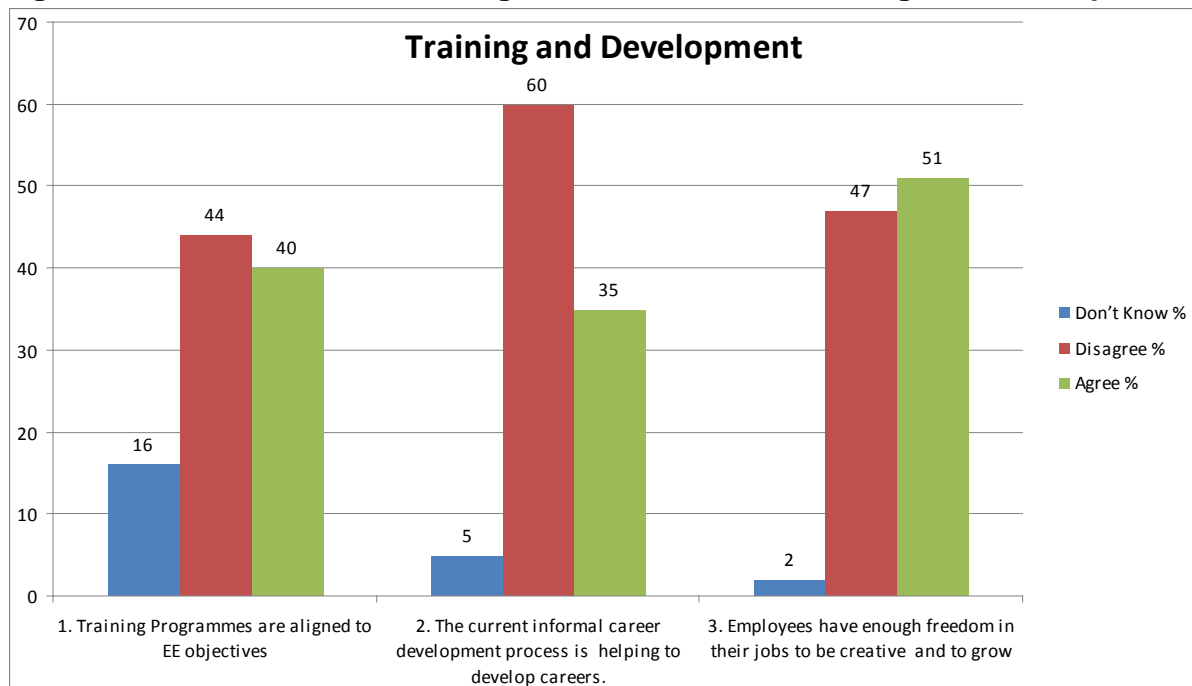
Diversity management has been identified as a critical strategy in increasing creativity, enhancing decision-making, improving communication and reducing interpersonal conflict (Robbins, 2000:13). 66% of the respondents agreed with this statement that diversity is promoted and properly managed within the Department; 29% disagreed and 5% indicated that they didn't know (Figure 4.7).

The findings from the statements indicate a negative perception about the provision of work environment and facilities. The concerns seem to be on providing reasonable accommodation to the needs of designated groups in order to create an enabling work environment.

4.11 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: TRAINING AND DEVELOPMENT

The fifth dimension focuses on training and development as one of the important strategies in supporting effective implementation of EEP:

Figure: 4.8 Distribution according to the statement: Training and development



Training and development is regarded as one of those critical interventions necessary for effective implementation of EEP, based on the historical background of the designated group. This is so because designated groups were denied access to learning institutions and they therefore need to be empowered in order to get on par with other designated groups. Esterhuizen (2008:48) supports this view that training and development is an effective EE strategy, where resources should be allocated to address under-representation levels of designated groups.

4.11.1 Training Programmes are aligned to EE objectives

It has been noted that the alignment of training and development to EEP is critical as stipulated in the Training and Development Act of 1998 (Section 2.3.5). Walbrugh and Roodt (2003:28) agree that Training and Development should form part of EE strategies in order to accelerate achievement of EE objectives (refer 2.4.3) The responses indicate negative perceptions, in that 40% of the respondents agreed to the statement, while 44% disagreed that training programmes are aligned to EE objectives, and 16% didn't know (Figure 4.8).

4.11.2 The current informal career development process is helping to develop careers

The people-centered development process has been acknowledged by Ramphele (1995:5) and also Matshikwe (2004:139). Structured development programmes and on-the-job training such as mentoring and coaching need to be part of training and development measures. All these are essential to people empowerment to enhance individual performance and service delivery.

Employee mentoring and coaching are sometimes adopted as quick wins to assist employees to perform and realise their own potential. 60% of the respondents disagreed that the current informal career development process is helping them; 35% agreed and 5% indicated that they didn't know (Figure 4.8).

4.11.3 Employees have freedom in their jobs to be creative and to grow

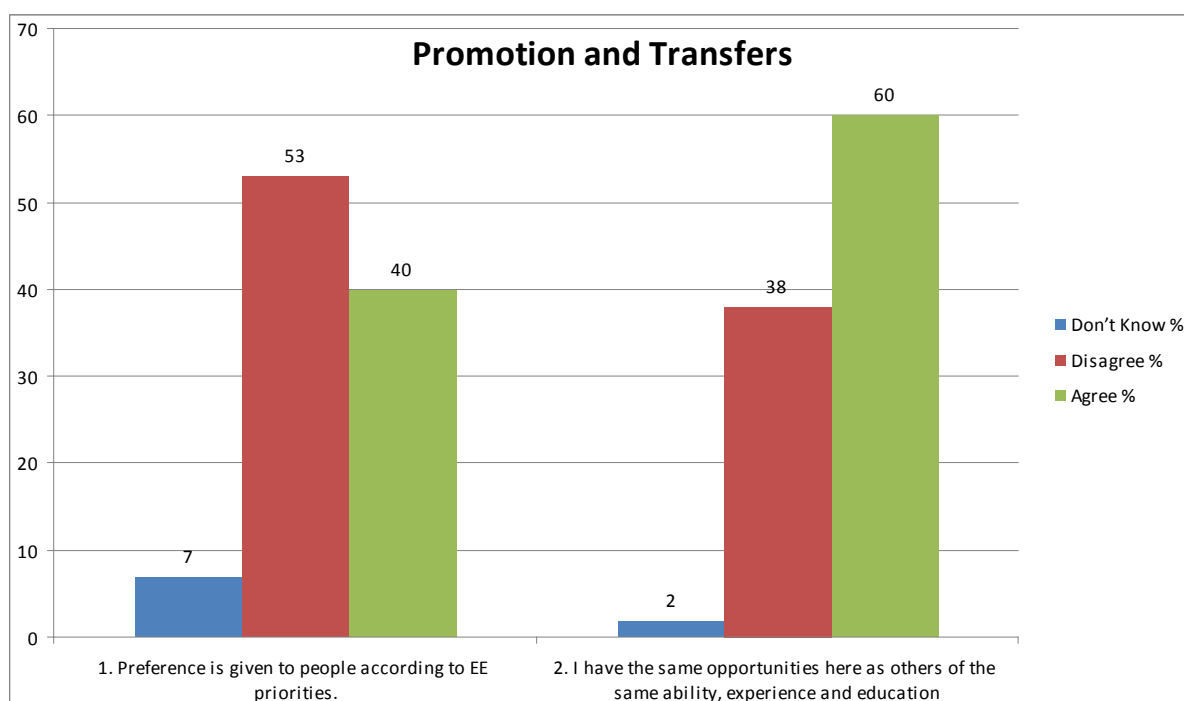
It is believed that the work environment should encourage creativity in order to enhance service delivery. 51% of the participants concurred with the statement, 47% disagreed and 2% indicated that they didn't know (Figure 4.8). These results show that employees are dissatisfied with Departmental training programme in relation to its support for EEP, and therefore calls for urgent attention. The researcher proposes urgent attention to address this perception, based on the importance and critical role that training and development plays in the achievement of EE. The urgency is increased by the consideration that this can be construed as non-compliance with

the legislative requirement, as well as its impact on the conduciveness of the work environment.

4.12 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: PROMOTIONS AND TRANSFERS

Two statements have been developed to enhance employee perceptions about how promotions and transfers are implemented in relation to EEP:

Figure 4.9 Distribution according to the statement: Promotion and Transfer



4.12.1 Preference is given to people according to EE priorities

There are perceptions that designated groups are appointed to positions for which they do not qualify (Section 2.3.1). 53% of the respondents disagreed with the statement that preference is given to people according to EE priorities; 40% agreed and 7% indicated a 'don't know' response (Figure 4.9).

4.12.2 I have the same opportunities here as others of the same ability, experience and education

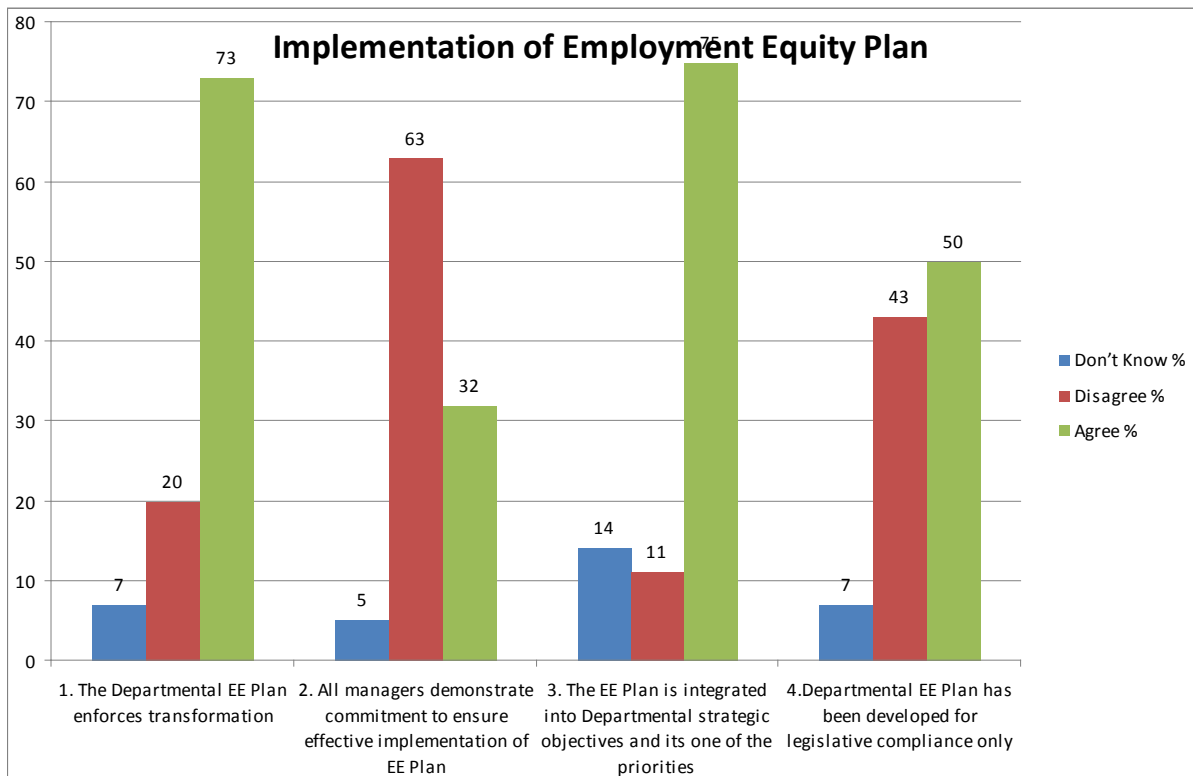
This statement is meant to test whether equal opportunities are given to all employees, in line with the objectives of the EEA. 60% of the respondents were positive, that similar opportunities are given to employees who have same abilities, experience and education; 38% disagreed and 2% indicated 'don't know' response (Figure 4.9).

Makgoba (2005:21) encourages proper implementation of affirmative action and employment equity in order to provide individuals and society with opportunities to bring out the best in people and to advance people and systems in the society. It has been interesting to note that employee perceptions within DOJ&CD indicate the view that they are given fair opportunities based on abilities, experience and education, and not only as EE candidates.

4.13 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: IMPLEMENTATION OF EMPLOYMENT EQUITY PLAN

Successful implementation of EEP is preceded by development of the Employment Equity Plan, taking into account the sensitive processes that need to be undertaken in addressing discriminatory and unfair policies, procedures and practices in the work environment. The development of an EE Plan as one of the legislative requirements has been outlined in 3.2.3.3. Four statements have been identified in order to test the perceptions of employees on the implementation of Employment Equity Plan (Figure 4.10).

Figure 4.10: Distribution according to the statement: Implementation of Employment Equity Plan



4.13.1 The Departmental EE Plan enforces transformation

EEA has been acknowledged as a piece of transformation legislation which requires proper planning with clear intentions and achievable objectives. Jaarsveld (2008:639) supports the importance of an EE Plan before implementing AA measures so as to avoid impulsive implementation (Section 3.2.3.3). This is based on the acknowledgement that transformation is a *process* designed to culminate in behavioural and systemic factors, so addressing all these requires clear transformation objectives. 73% of the respondents agreed with this statement (Section 3.2.4); 20% disagreed that Departmental EE Plan does not enforce transformation and 7% indicated that they didn't know (Figure 4.10).

4.13.2 All managers demonstrate commitment to ensure effective implementation of the EE Plan

63% of the respondents disagreed that DOJ&CD management demonstrate commitment to ensure effective implementation of EE Plan; 32% agreed and 5% indicated that they didn't know. These results are of great concern if employees feel that the commitment of management is not apparent (Figure 4.10).

4.13.3 The EE Plan is integrated into Departmental strategic objectives, and is one of the priorities

The impact of non-integration of the EE Plan into Department strategic objectives has been identified as a serious barrier (section 2.3.2.3) to service delivery. 75% of the respondents agreed with this statement, 11% disagreed and 14% indicated that they didn't know (Figure 4.10).

4.13.4 Departmental EE Plan has been developed for legislative compliance only

The general perception of developing EE for legislative compliance only has been noted as a barrier, and therefore calls for more strategies to implement it effectively in order to benefit the employer (Section 2.3.2.3). 50% of the respondents agreed; 43% disagreed and 7% indicated that they didn't know (Figure 4.10).

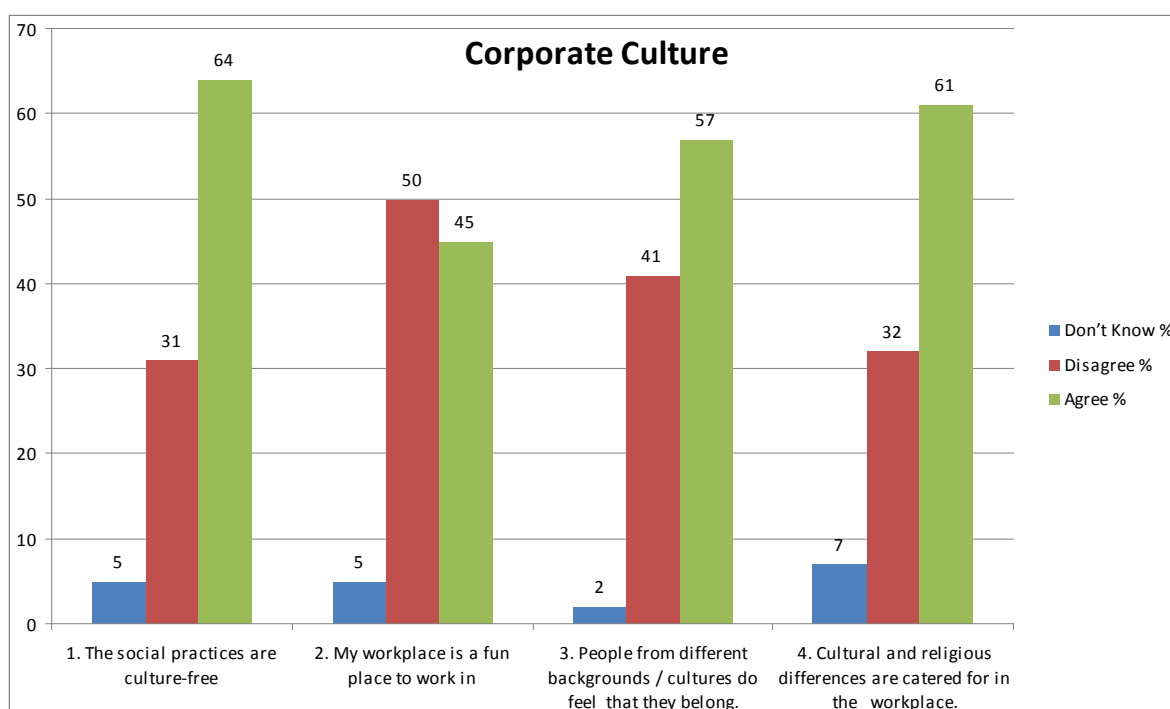
The results on how the EE Plan is implemented in the Department are somewhat contradictory, as 73% of the respondents agreed with the statement that the EE Plan enforces transformation and 75% indicated that EE Plan is integrated into Departmental strategic objectives. These two positive responses give the impression that management is actively involved in the process of integrating EE Plan into Departmental strategic objectives. However, 63% disagreed that management demonstrate commitment to effective implementation of EE. 50% felt that EE within the Department is implemented only for compliance purposes. These results raise critical questions, such as: how is the EE Plan integrated into Departmental strategic objectives, whereas management commitment is not

apparent? If EE is implemented for purposes of compliance, to what extent does it enforce transformation? In order to respond to these questions and to enhance the effectiveness of this aspect of EEP in the DOJ&CD further research may be needed.

4.14 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: CORPORATE CULTURE

The corporate culture has a direct impact on the conduciveness of the work environment, which in turn affects employee morale, performance and service delivery. This dimension also focuses on diversity awareness and management. Four statements were used to assess the perceptions of employees about the overall Departmental culture:

Figure 4.11 Distribution according to the statement: Corporate Culture



4.14.1 Social practices are culture-free

The purpose of the Employment Equity Act has been outlined in Chapter 3, where the emphasis is based on fair discriminatory practices. This is based on the historical background characterised by discriminatory laws and practices. 64% of respondents agree with this statement, which means that progress has been made

in terms of elimination of unfair discriminatory practices. On the other hand, 31% disagreed that the social practices are culture-free, and 5% indicated that they didn't know (Figure 4.11).

4.14.2 My workplace is a fun place to work at

It has been noted that the conduciveness of the work environment forms one of the enabling factors towards effective individual performance. The Literature Review in Chapter 2 highlighted a number of factors that contribute negative perceptions about the workplace. Section 2.3.1 outlined some of the factors, including employee anxiety and fears on how the EEP is implemented, so that employees feel threatened about their career opportunities with regard to fairness and equal opportunities. 50% of participants disagreed that the workplace is a fun place, 45% agreed to the statement and 5% indicated that they didn't know (Figure 4.11).

4.14.3 People from different backgrounds / cultures do feel that they belong

Section 3.3.6 in chapter 2 outlined the importance of diversity management in including both designated and non-designated groups, to ensure that they are equally accommodated, irrespective of their different backgrounds. 57% of participants agreed that there is a sense of belonging by people from different backgrounds; 41% disagreed with the statement, and 3% responded that they didn't know (Figure 4.11).

4.14.4 Cultural and religious differences are catered for in the workplace

It has been acknowledged that the pre-1994 South African government was driven on the basis of apartheid laws. Cultural and religious differences were highlights of discriminatory practices in the workplace. The legislative framework in Chapter 3 focused on the provisions that were made to eliminate all the discriminatory practices that arose from apartheid laws.

Jain (2002:17) stresses the necessity of recognising cultural differences between groups of employees and providing practical allowances for such differences in organisational policies, and further refers to diversity management as the latest

development in a series of strategies aimed to better represent excluded groups in employment.

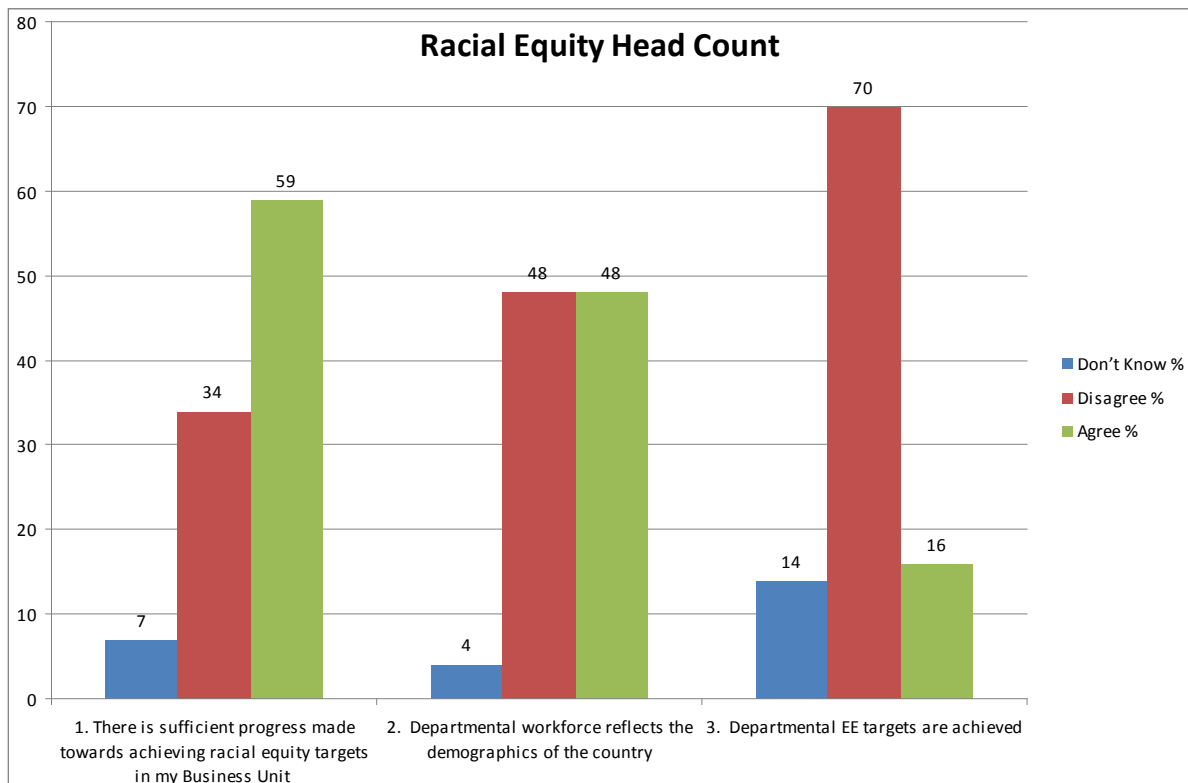
61% of the participants agreed that different cultures and religions are accommodated in the workplace; 32% disagreed with this statement and 7% indicated that they didn't know (Figure 4.11).

Of the four statements presented to test their perceptions of Departmental culture in relation to EE implementation, employees responded positively to three and disagreed with only one. The overall impression given by these responses is that the Departmental culture embraces EE.

4.15 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: RACIAL EQUITY HEADCOUNT

The racial equity head-count dimension is intended to assess employees' perceptions on progress on achievement of EE targets. Three statements were presented, and all 44 participants responded to them all:

Figure 4.12 Distribution according to the statement: Racial Equity Head-Count



4.15.1 There is sufficient progress made towards achieving racial equity targets in my Business Unit

The fundamental principle of EE is to address job levels and categories that are under-represented, and the employer is required to conduct a workforce analysis in order to identify those areas. 59% of participants responded positively that progress is being made in achieving EE targets within individual Business Unit/Branches; 34% disagreed with the statement and 7% indicated that they didn't know (Figure 4.12).

4.15.2 Departmental workforce reflects the demographics of the country

48% of the participants indicated that the Departmental workforce reflects the demographics of the country; an equal number disagreed with the statement and 4% indicated that they didn't know (Figure 4.12).

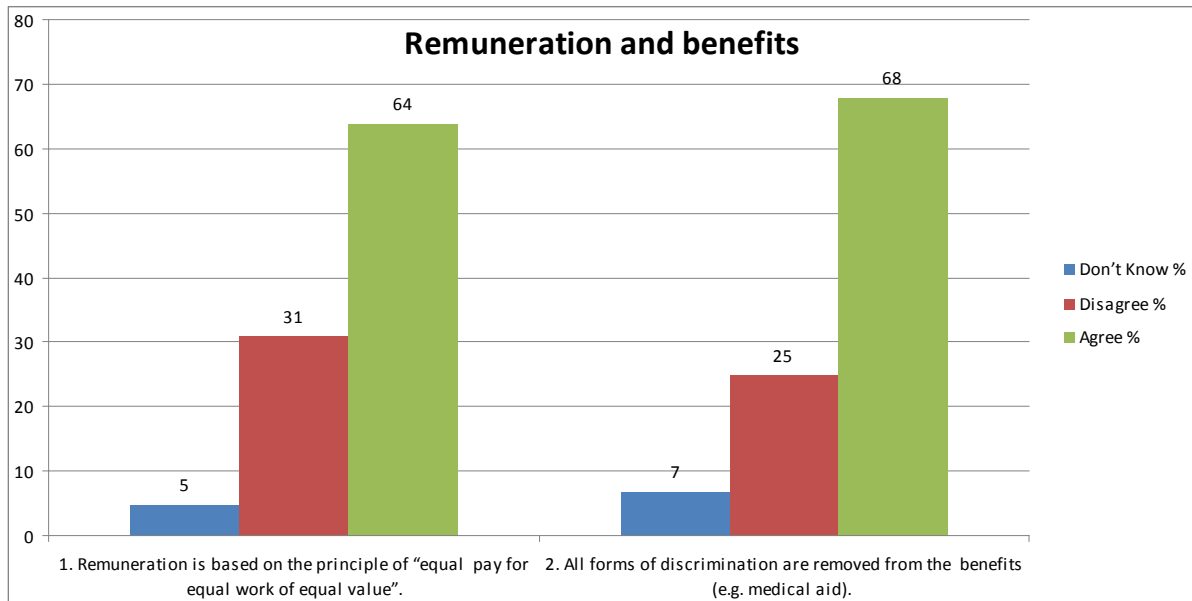
4.15.3 Departmental EE targets are achieved

The majority of the participants (70%) disagreed that the Department did achieve EE targets, 17% agreed with the statement and 14% indicated a 'don't know' answer (Figure 4.12). These results indicate that Departmental EE targets have not been achieved, and as such, its workforce profile does not reflect the demographics of the country. However, participants indicate that, at Branch level, efforts have been made towards achievement of EE targets.

4.16 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: REMUNERATION AND BENEFITS

The remuneration and benefits dimension was used to assess the perceptions of employees regarding equity on remuneration and benefits. It has been noted that inequalities in the workplace arise from issues related to how employees are compensated and benefits allocated to them. Two statements were identified and both were fully answered by all 44 participants.

Figure 4.13 Distribution according to the statement: Remuneration and benefits



4.16.1 Remuneration is based on the principle of “equal pay for equal work of equal value”

According to Kleinman (E-dictionary, undated: on-line) internal consistency can be achieved if employees believe that they are paid what their work is worth, where the company’s pay rates reflect the overall value of each person’s job to the organisation. Based on this view employee remuneration and service benefits disparities have been one of the burning issues that the Employment Equity Act purported to address. 64% of the participants agreed that employees are fairly remunerated, 31% disagreed with this statement, and 5% indicated that they didn’t know (Figure 4.13).

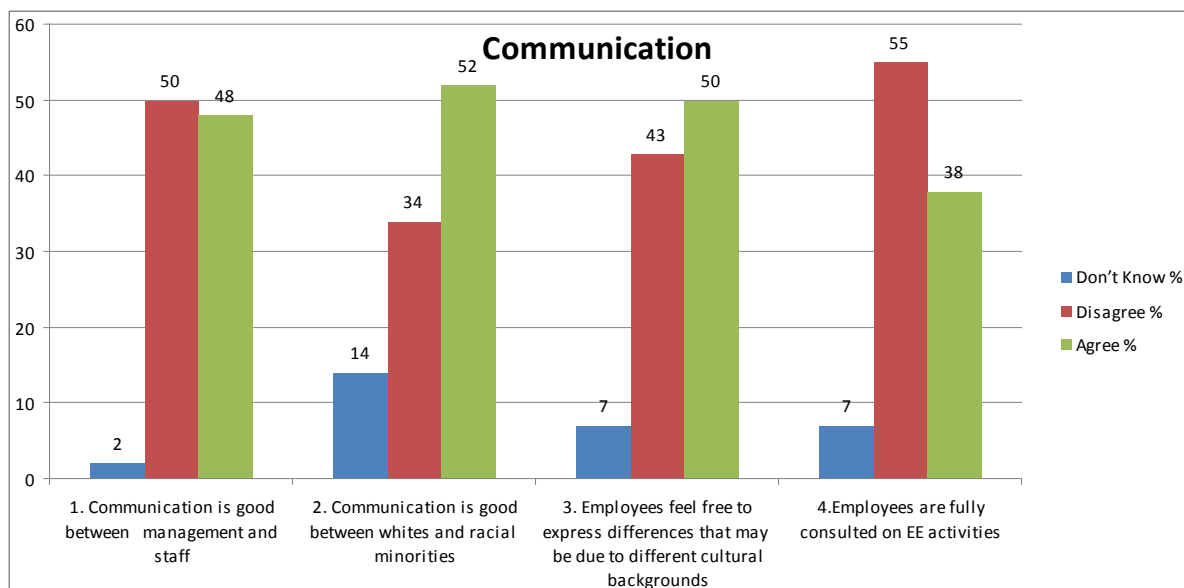
4.16.2 All forms of discrimination are removed from the benefits

68% of participants agreed with the statement that there is no discrimination regarding employee benefits; 25% of respondents disagreed with the statement and 7% indicated that they didn’t know (Figure 4.13). The two statements indicate that the participants are satisfied with how employees are remunerated, as both statements received a high positive score rate of 68% and 64%. This could be attributed to the prescriptive and regulated nature of Public Service Remuneration System where Trade Unions are involved.

4.17 DISTRIBUTION IN THE SAMPLE ACCORDING TO THE STATEMENT: COMMUNICATION

Communication is one of the critical dimensions in the work environment in order to ensure that Departmental goals and values are understood, and that all employees share and work towards a common goal. Four statements were used to determine how employees perceive communication within the Department.

Figure 4.14 Distribution according to the statement: Communication



4.17.1 Communication between management and staff is good

The relationship between management and employees is fundamental in that management remains accountable to ensure that the work environment is conducive. This requires effective communication in order to clarify the expectations and eliminate animosities that will hamper service delivery. 50% of the participants disagreed with the statement that communication is not good between management and staff, 48% agreed that communication is good between management and staff and 2% indicated that they didn't know (Figure 4.14).

4.17.2 Communication between management and staff is good

A healthy and conducive work environment is required to encourage sound working relationships across race, where employees respect and communicate effectively irrespective of colour. 52% of the respondents agreed that communication is good among employees across race, 34% of the respondents disagreed with the statement and 14% indicated that they didn't know (Figure 4.14).

4.17.3 Employees feel free to express differences that may be due to different cultural backgrounds

According to Carrell, Elbert, Hatfield, Grobler, Marx and van der Schyf (2000:170), the findings of a national survey of some of the top 100 companies in South Africa indicated workplace problems that included lack of trust and confidence between subgroups; a breakdown in communication between subgroups; prejudices and stereotypes; poor teamwork; decreased productivity; intergroup conflict; high staff turnover, especially among the previously disadvantaged people recruited to companies, and unhealthy competition. All these problems centre on communication, and have a direct impact on the work environment, especially on service delivery, and therefore necessitate attention.

Communication forms the basis of a healthy culture in a work environment as it concerns interactions and relationships. The overall response on this dimension indicates that 50% of the respondents agreed that there is freedom of expression in the Department; 43% disagreed with the statement and 7% indicated that they didn't know (Figure 4.14).

4.17.4 Employees are fully consulted on EE activities

Section 16 of the EEA requires employers to consult employees on EE issues. 55% of respondents indicated that employees are not fully consulted on EE activities; 38% agreed that employees are consulted, and 7% indicated that they didn't know (Figure 4.15).

Of the four statements, participants disagreed with two: that there is no freedom of expression in the Department, and that there is no consultation on EE activities. It has been noted that the agreements on the other two statements are also at low scores of 52% and 50%. Based on these scores, it can be deduced that more attention is needed to improving communication within the Department, especially as employee consultation forms part of the legislative requirement in terms of Section 16 of EEA (Refer to Section 3.2.3.3).

4.18 BIOGRAPHICAL ANALYSIS OF THE RESULTS OF THE SEMI-STRUCTURED INTERVIEW QUESTIONS

The qualitative method was used where semi-structured questions were developed to enable elaborative engagement with management to describe and share their views on implementation of Departmental EEP.

The main objective of the semi-structured interview questions was to determine managements' views of the value that EEP adds to Departmental strategic objectives. This is against the background that the purpose of the EE Act and other related legislation is aimed at transforming the work environment so as to enhance service delivery. Furthermore, the Literature Review (chapter 2 section 3.2) noted the value that EE adds to efficient service delivery as well as to transforming the public service. In order to determine the value that EE adds to Departmental strategic objectives, five structured questions were developed, focusing on the following dimensions:

- Alignment of EEP to Department strategic objectives
- The impact of EEP within individual units/branches
- Strategies to integrate EEP with Departmental business priorities
- Consultation benefits
- Strategies for promoting equity and fair treatment in the work environment

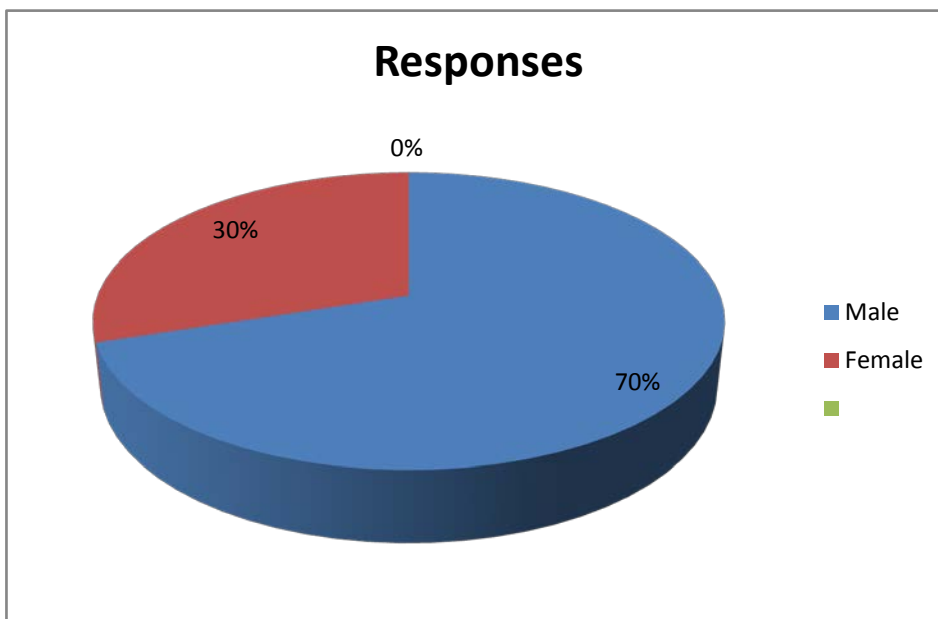
4.18.1 Interview process

The researcher made telephone calls to 18 participants from different branches to make appointments for interviews with members of management and to give them a full background of the study. The discussion included arranging a 20-minute interview with individual managers. Due to busy schedules, the researcher only managed to secure a meeting with three managers; the other seven completed the questions and e-mailed them to the researcher. These managers were contacted telephonically on questions that needed further clarification. The researcher made several attempts to arrange a meeting with the seven managers, without success. However, their participation in the form of completion of semi-structured questions was appreciated, as they provided constructive and valuable inputs.

4.18.2 Distribution in the sample according to gender

A breakdown of management who participated in semi structured interview is provided below in terms of gender:

Figure 4.15: Distribution according to gender

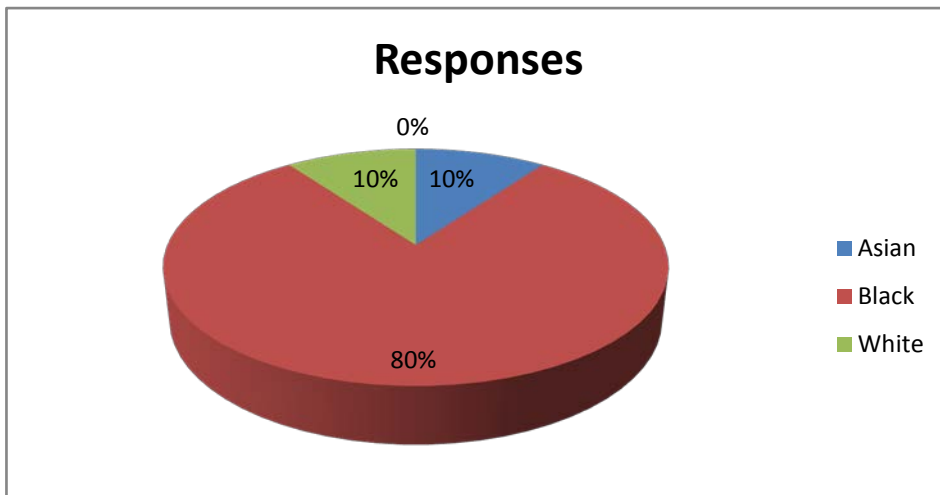


70% of the respondents were males and 30% were females. This ratio may be attributed to the fact that Management levels of DOJ&CD are dominated by males.

4.18.3 Distribution in the sample according to race

Figure 4.16 indicates that more black people participated than other race groups. This reflects a true picture of the demographics of the country and the DOJ&CD workforce profile, as well as compliance with the EEA in terms of equitable representation.

Figure 4.16: Distribution according to race



4.18.4 Distribution in the sample according to years of service

The table depicts a fair spread of years of service, which allows participants to make meaningful inputs about the value that EE contributed to Departmental strategic objectives.

Table 4.4: Distribution according to years of service

Years of Service	Responses
2	2
3	1
4	1
6	1
9	1
16	1
24	1
28	1
33	1
Total	10

Table 4.5: Distribution according to branches

Branch	Responses
Corporate Services	7
Legislative & Constitutional Development	2
Masters of the High Court	1
Total	10

Of five branches only three participated. The researcher noted that 70% of participants were from Corporate Services. Corporate Services is divided into four sub-branches; 20% of the responses came from Legislative & Constitutional Development branches, which also comprised two sub-branches. 10% came from Master of High Court branch (Table 4.5).

4.19 DATA ANALYSIS AND INTERPRETATION OF THE RESULTS OF THE SEMI-STRUCTURED QUESTIONS

The discussion below presents management's responses to the semi-structured interview questions:

4.19.1 Distribution in the sample according to the interview question: To what extent is the Departmental Employment Equity Programme aligned to its strategic objectives?

Question 1: In your view, to what extent is the Departmental Employment Equity Programme aligned to its strategic objectives? The researcher's interest was to source information from management as they are held accountable for implementing EE in the work environment, especially as it has been emphasised that EEA and other related legislation is aimed at transforming the work environment to enhance service delivery. Esterhuizen and Martins (2008:69) note the importance of the role of management in ensuring the EE alignment to Departmental strategic objectives (Section 2.3.2.1). Chapters 1 and 2 have provided a background of what the alignment of EEP and strategic objectives should entail. Their business imperatives in the public service have been linked to transformation and efficient service delivery. Clare (1996:122) supports this view that the EE agenda is essential for responding to the needs of the community in rendering professional service. The management's responses are summarised below:

- 40% considered that there is an alignment to key strategies that promote the achievement of the departmental objectives. Such strategies include Recruitment and Selection; Performance Management and Training and Development
- 20% indicated that alignment of EEP with Departmental strategic objectives is at a minimal level, where the focus is more on numbers than on providing reasonable accommodation to retain the designated group. They added that the alignment is more on capacitating the Department and reducing the vacancy rate. These respondents warned that too much emphasis on achieving targets may compromise the employing of people with appropriate skills and competencies
- 10% felt that there is no alignment, and that EE is only discussed as a side issue or for legislative compliance

- The other 30% indicated that the Department has improved in the achievement of EE targets, and that this has been demonstrated by the Director General's commitment and directive towards appointment of women at senior management levels

A general concern was that the alignment of EEP and Departmental strategic objective could be further enhanced if all managers were committed to fully implementing EE. It was further suggested that EE monitoring and evaluation systems should be strengthened, and management empowered to take ownership rather than rely on HR for implementation.

4.19.2 Distribution in the sample according to the interview question: What is the impact of the EEP within individual units?

Question 2: Describe the impact of the Employment Equity Programme within your Unit.

EEP objectives remain line management responsibility, so it is necessary that for monitoring purposes the implementation of EEP be measured at business unit level. Kunene (2005:31) maintains that mainstreaming this to the work of the whole organisation would yield better results. The following are responses from the respondents describing the impact of EEP in various individual branches:

- **EE targets achievements**

The historical background described in Chapter 3 implies that the fundamental purpose of EEA ought to be equitable representation in occupational levels and categories of the workforce profile. The White Paper on the Transformation of Public Service (1995) emphasised the need to transform, and create an equitable public service work environment to provide efficient service delivery (Section 3.2.1)

Respondents described the impact of EE in their individual branches in terms of their EE target achievement, where they felt that great efforts had been made to accelerate achievement. However, more could still be done to ensure EE target achievement of employment of women at senior management levels. The respondents indicated that, while they had made some efforts to achieve EE targets, they were still lacking on employing people with disabilities.

- **Employee consultation**

Employee consultation forms part of the legislative requirement as well as one of the best practices where employees are afforded the opportunity to present their views and contribute to the conduciveness of the work environment. Selby and Sutherland (2006:47) support the idea of employee involvement, which encourages two-way communication between management and employees where employee needs and inputs are considered, and management expectations clarified.

The respondents mentioned their consultation initiatives where employees are involved in branch activities where they actually remain motivated and united, with no racial or gender compartments.

A negative note was expressed in discomfort experienced by non-designated groups who perceive EE as punitive; this negative perception is exacerbated by the absence of change management interventions.

- **Training and development of the designated group**

The negative perceptions about lack of competencies and abilities of designated groups have caused the greatest concern, and are seen as a barrier towards achievement of equitable representation of the workforce profile. Bezuidenhout, Bischoff, Buhlungu and Lewins (2008:8) confirms these perceptions regarding doubts about designated groups' qualifications. The problem of lack of skills has been identified as a national priority, which resulted in the enactment of Skills Development Act of 1998 (Section 3.2.5).

The respondents indicated a concern about lowering job requirements in order to achieve EE. An alternative was identified of investing in people by empowering employees with skills and competencies.

- **Diversity management**

Diversity management has been described as a key strategy to ensure smooth transformation in the work environment. Rangarajan (2010:249) summarises the importance of diversity management in bringing organisational change, leadership commitment, employee participation and accountability to AA.

The respondents indicated the impact of EE in the change it brought to transform their Branches with regard to diverse approaches that enhanced management thinking.

The managements' response indicates their understanding of the objectives of EEA in ensuring that the workforce profile in individual Business Units is diversified and equally represented. Representivity and target achievement are based on women and people with disabilities, and the responses above show that Business Units do make efforts to achieve their EE targets.

A need for effective change management intervention has been proposed, where it is believed that smooth transformation will be enhanced, and possible resistance eliminated. Training and development has been acknowledged as a possible positive contribution to service delivery. The impact of employee participation and consultation has been shown to be important in bringing unity and a platform for employee engagements.

4.19.3 Distribution in the sample according to the interview question: Strategies to integrate EEP with Departmental business priorities

Question 3: If you were the accounting officer, how would you ensure that the Employment Equity Programme is integrated within Departmental business priorities?

The EEP has been described in Chapter 3 as part of the transformation process whereby from the Public Service perspective it should embrace effective service delivery, which is among government priorities (Section 3.2.1).

The following strategies are proposed by participants from different Branches:

- 30% of participants indicated that they would ensure that the EEP is integrated in management performance contracts. Of these, 20% added the importance of educating and sensitising management to take ownership in implementing EE and hold them accountable for non-achievement.
- 30% of respondents felt that Executive Committee (EXCO) should give strategic direction, ensure that EEP is integrated within Departmental business priorities and that EE progress be fully monitored and communicated to all employees.
- 30% of the participants emphasised the importance of enhancing and maintaining an effective Consultative Forum.
- 10% recommended conducting an analysis to enhance possible barriers towards effective implementation of EE; develop interventions and prepare an EE Plan; report to DOL on progress in the implementation of the EE Plan; integrate with the HR Plan and ensure a holistic approach to people management; and include alignment to recruitment and selection, training and development, human dignity, broader empowerment, succession planning programme; set clear targets; and recognise managers who achieve their EE targets.

These strategies demonstrate that management is knowledgeable about legislative requirements. Over and above the legislative requirement, it is

proposed that management be made accountable through inclusion of EE responsibilities in their performance agreement. The integration of EE into the Departmental strategic objective has also been identified as an important strategy. This strategy has also been described as essential in Chapter 2 (Section 2.3.2.1). Van Tonder (2004:189) encourages a leading role that management should play in determining the strategic direction in response to competitive environmental demands.

4.19.4 Distribution in the sample according to the interview question: What are the benefits of employee consultation?

Question 4: For the Employment Equity Programme to be fully implemented there should be an effective consultation in order to address specific issues that will promote and enhance its achievement.

Do you agree to this view? If yes, elaborate by indicating the benefits of consultative process. If no, give reasons of your disagreement and indicate disadvantages.

This question was intended to enhance management's belief and also the extent of their support for the employee consultation process. It was also aimed at determining whether they see any benefits in consulting with employees.

Employee consultation is a legislative requirement, as stipulated in Section 16 of the Employment Equity Act of 1998. Esterhuizen (2008:27) emphasises the necessity of consultation as the eventual realisation of achieving the goal of EE, and urges the employers to engage in this process in good faith. It is believed that consultation in good faith will improve trust and relationship between management and employees, and in turn, contribute to a conducive working environment.

100% of the respondents fully supported effective consultation of stakeholders when implementing EEP. They further indicated that the consultation should involve line managers, union and employees. They also maintained that consultation fosters buy-in, awareness and understanding by employees, and encourages a sense of ownership. The respondents indicated that the process of

consultation can give management an opportunity to identify blockages and areas for improvement.

The respondents mentioned yet other advantages of consultation process; that it ensures that the entire department has a common understanding of EEP, and that it creates a collective responsibility for all stakeholders in the Department. Furthermore, designated groups should be made to understand the service delivery expectations from EE beneficiaries. Those not in the targeted group should be made to understand their responsibilities for embracing the programme in pursuit of building capacity, eliminating fear of being discriminated against, and clear any misconceptions.

The participants further indicated that a consultation process enforces the organisation's commitment to a fair and equitable workplace for all, and provides for greater transparency and accountability. Communicating regularly with employees, managers, bargaining agents and employee representatives fosters an environment of understanding, commitment and support that will contribute to the initiation of an EEP in the workplace. Furthermore, it is believed that these communications should explain employment equity and describe the activities and measures the organisation should undertake to implement it. During the initiation stage especially it is important to ask employee representatives and bargaining agents for their opinion about how best to implement employment equity in the workplace and how to communicate with employees on matters related to employment equity.

Based on the responses received on this question, the majority of the participants fully supports the importance of consultation, and enumerated the advantages. It has been noted that the advantages would benefit both the employer and employees in the creation of a conducive work environment, with enhanced service delivery as well as achievement of EE Act objectives.

4.19.5 Distribution in the sample according to the interview question: What strategies should managers adopt when implementing the Employment Equity Act of 1998?

Question 5: The objective of the Employment Equity Act of 1998 is to promote equity and fair treatment in the work environment in order to enhance service delivery. In order to achieve this, what strategies should managers adopt?

EE has been closely linked to the transformation process, which has been made enforceable by a legislative framework. The process is therefore understood to be evolving in order to improve the work environment to ensure that all employees have the same opportunities to maximise their potential. A need for continuous improvement in the work environment is also supported by Andres, Scope and Yard (2008:13). The foundation of transformation processes should also be based on Constitutional principles in order to entrench the full and equal enjoyment of all rights and freedoms as enshrined in the Constitution (Section 3.2.2).

Strategies for promoting equity and fair treatment in the work environment, as identified by participants may be summarized as follows:

- **Provision of reasonable accommodation**
 - Designated groups should be provided with assistive devices.
 - Provide training and development.
- **Strategy to accelerate achievement of EE targets**
 - Use vacancies to address identified gaps.
 - Use natural attrition to fill with target groups
 - Early retirement of non-designated groups (without penalty clause)
 - Use performance management and development to provide incentive for achievement of equity targets by business units.
- **Training and development programs (accelerated) for designated groups**
 - Mentoring and coaching for designated groups
 - Alignment of the strategic objective of the Department to embrace the Departmental EE Plan

- **Celebrating diversity**
 - The monitoring of EE to be mainstreamed into all transformation programmes in the department.
 - Take into consideration cultural differences, as this assists in understanding employees better. This improves personnel relationships and thus performance
- **Enhance an effective communication strategy**
 - Consult and collaborate with bargaining agents and employee representatives
 - Continual feedback sessions and acknowledging positive performance

These proposed strategies form part of EEA requirements, and it is interesting to note that innovative ideas are considered to strengthen effective implementation of EE. Most strategies centre on achievement of EE targets, and also acknowledge the need to empower the targeted group in order to avoid negative perceptions on incompetence by the designated group.

Communication and consultation have also been identified as EE strategies to ensure employee buy-in and participation. Cultural and diversity issues are also looked at in terms of building relationships and fostering unity with the ultimate objective of improved performance at both employee and organisational levels.

4.20 SUMMARY

The main objective of this chapter has been presented and interpreted from the results of the research survey, and hence to respond to the research question of this study.

Statistical analysis, based on the information obtained from the questionnaires and semi-structured interview questions was provided. The researcher was satisfied with the response received as 88% of the questionnaires were returned. 30% of the interviews were conducted and 70% of the semi-structured questions completed and submitted. Eleven dimensions were utilised to determine the perceptions of the employees regarding the effectiveness of EEP. Further, probing

statements were used on each dimension in order to stimulate their perceptions and knowledge about EEP. Five dimensions were used on the semi-structured questions to determine the interpretation of management on the value that EEP adds to Departmental strategic objectives.

The responses provided a significant contribution to the study, with clear indications on measures that can be used to enhance the conduciveness of the Departmental work environment in order to implement EEP.

The overall responses were satisfactory, and demonstrated an understanding of EEP, although the majority still emphasised the achievement of EE targets without balancing it with the provision of a supportive work environment that would embrace EEP implementation and service delivery.

Chapter 5 will provide a summary of the findings and recommendations of areas that need attention in order to improve implementation of EEP within DOJ&CD.

CHAPTER 5

RESEARCH FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

This Chapter will integrate the information gathered throughout the study with a view to providing conclusions and recommendations based on the study objective of enhancing measures that can be used to implement EEP within DOJ&CD.

The researcher noted South Africa's historical background that had a major influence on the work environment, with specific reference to discriminatory policies, procedures, processes and practices. These included inconsistent applications and unfair treatment of employees in the work environment which resulted in divisions among employees. The democratic government inaugurated in 1994 promulgated a series of laws in an attempt to create a conducive work environment based on non-discriminatory, equitable and fair treatment.

The researcher's interest was motivated by the fact that the transformation laws have been in place for over a decade, and all designated employers have implemented them. The crucial question is how effective have these laws been implemented? A specific focus for the researcher was on the *Employment Equity Act, 55 of 1998*, and its implementation in the public service, particularly DOJ&CD.

This chapter reflects on the researcher's point of departure as outlined in Chapter 1, and the objectives of this study, the problem statement and questions in addressing the problem statement. The literature review study attempted to investigate measures which can be used to implement EEP through enhancing the practical implementation of EE based on the other research studies. The practical value of the study will be its contribution to enhance implementation of Departmental EEP.

5.2 SUMMARY OF CHAPTERS

The Chapters in this study are summarised below with a view to reflecting and integrating information gathered in order to identify measures that can be used to implement EEP and make recommendations to enhance effective implementation in the DOJ&CD.

5.2.1 Chapter 1: General Introduction

The main focus of this study was to enhance measures that can be used to enhance implementation of EE within DOJ&CD. The researcher's problem statement centres around the conduciveness of the DOJ&CD's work environment in promoting effective implementation of EEP. The main questions of the study are: "What measures are used to implement EEP within DOJ&CD" And "what value does implementation of EEP add to strategic objectives of DOJ&CD? The following sub questions were asked in order to investigate and respond to the main questions and objectives of the study:

- What areas need improvement to enhance the current Departmental EEP?
- Is the Departmental EEP aligned to its strategic objectives?
- What are the perceptions of employees about the effectiveness of EEP within the DOJ&CD

The researcher conducted a Literature Study in Chapter 2 in an attempt to find answers to these questions in previous research on practical implementation of EE in other organisations.

The researcher's problem statement was further conceptualised in relation to the currently implemented Departmental EEP. Based on this, the Departmental EEP has been briefly summarised and forms part of the introduction of this study, so as to provide the study background.

Based on the objectives of the study, the researcher identified research and data analysis methodologies in Chapter 1.

5.2.2 Chapter 2: Literature Review on Employment Equity in South Africa

The purpose of the Literature Review was outlined in order to gain more knowledge on how EE was implemented in other organisations, and to identify other, related, research findings.

Definitions of important concepts critical for achievement of EE objectives were outlined. These definitions included *employment equity* and how it has been described and implemented. The review indicated that for EE to be effectively implemented the work environment should be enabling and conducive, without discriminatory and unfair labour practices.

The second concept is *Affirmative Action*, where the emphasis was to differentiate it from EE, based on the legislative objectives. It was noted that AA forms part of adopted strategies towards achievement of EE objectives, and it requires proper planning and clear transformational goals aligned to organisational strategic objectives. The third EE concept was the *provision of reasonable accommodation for designated groups* in order to make the work environment conducive to enable them to maximise their potential. The fourth concept was *designated group*, describing the beneficiaries of EE based on the historical discriminatory laws. The fifth concept was *diversity management*, and was described as a strategy towards effective implementation of EE.

The analysis of EE in the Public Service revealed that transformation programs were identified as essential to ensuring equitable representivity of the workforce profile. The emphasis was based on creating conducive and non-discriminatory practice where employees are empowered with the necessary skills and competencies in order to render efficient service delivery.

Most researchers identified the perceptions of employees as playing a fundamental role when analysing the Public Service work environment. The employee perceptions were summarised as follows:

- The influence of employees' perceptions on whether the work environment is fair or unfair; thus, if negatively perceived, this could invite sabotage, resistance to transformation and animosity.
- The perceptions that designated groups are incompetent and do not possess the job requirements, and that their appointments are based on tokenism had an impact on employee morale and attraction and retention of designated groups.
- Management commitment was perceived as limited, looking only at EE targets without providing the necessary support to designated groups
- Non-designated groups perceived EE as punitive
- The findings of the study confirmed these perceptions

The literature review indicated the following as barriers to EE that different organisations experience:

- Work environments that do not embrace diversity management and remain based on discriminatory and unfair labour policies and practices
- Non-alignment of EE objectives to organisational strategic objectives
- Unhealthy working relationships between designated groups where they do not support one another
- Lack of awareness and understanding of EE objectives
- Allocation of meaningless duties to designated groups whereby they are under-utilised
- Lack of training programs to empower designated groups

- Employment of people who do not have the right skills and attitudes results in poor service delivery

The following strategies were identified as essential to minimising impediments to implementation of EE:

- Analysis of the work environment and development of an Employment Equity Plan which should clearly indicate affirmative action measures
- Provision of reasonable accommodation for designated groups
- Employee involvement and consultation
- Training and development programs to empower designated groups
- Diversity management should create a conducive work environment that embraces EE objectives

5.2.2.1 Lessons in Employment Equity implementation

Lessons can be learned from other institutions in terms of the strategies employed to enhance EEP. The University of Cape Town utilises Recruitment Policy and Procedure as a framework to ensure that suitable internal and external candidates from the designated groups are appointed. The University has adopted recruitment strategy as an effective tool for employment equity through proactive and long-term strategies, such as succession planning, by identifying the potential of internal and external candidates from designated groups. Succession planning is supported by a training and development program whereby appropriate education and skills development opportunities are provided to the target group (Prince, 2006:27).

The University of Cape Town acknowledged legislative requirements in a Consultative Forum represented by all stakeholders, and ensures that the Forum meets quarterly to monitor the overall progress made by the University in

achieving its EE objectives and implementing employment equity plans. This forum, also referred to as the Joint Consultative Forum on Employment Equity, reports to the Vice-Chancellor via the Deputy Vice-Chancellor on transformational responsibilities, and advises the Vice-Chancellor on measures that may be desirable to meet the objectives of the university's Employment Equity Plan (E-dictionary, undated: on-line) Cell C (Employment Equity Strategy and Plan of Cell C, 2006:2) developed its Employment Equity Plan as a strategy to maintain its diversified workforce profile, and also outline a long-term plan in creating an enabling environment for all employees.

The City Of Cape Town outlined its Employment Equity Plan objective as to: “(1) promote equality, (2) eliminate unfair discrimination, (3) redress the effects of discrimination, (4) achieve a diverse, representative workforce and (5) promote efficiency”. The City outlined the reasons for implementing Employment Equity, based on legislative compliance by drawing up an Employment Equity Plan, where quantitative and qualitative targets are set, such as affirmative action and diversity management.

The City further believes that it would make business sense for it to reflect its diversity within its (1) workforce, (2) communities (customer-based) and (3) potential suppliers. To achieve the objectives of this EEP implementation involved a preparation phase, including the setting of short- and long-term goals.

Hux Technologies (Employment Equity and Corporate Investment Portfolio: (E-dictionary, undated: on-line) identified its EE implementation guiding principles as follows:

- Employment equity initiatives should be integrated with the Hux business strategy
- Employment equity must be pursued in a manner that will ensure that existing skills are retained.
- Hux should ensure that the appointment of staff be based on merit and not on tokenism.

- Decisions taken will be presented to staff in a manner which will avoid negative perceptions developing.
- The company will ensure that all employees in the company embrace the task of redressing potential inequalities in the company, and will develop a sense of ownership with regard to this process.
- The company will promote the internal development of existing designated employees rather than recruit them from external sources.

5.2.3 Chapter 3: Legislative Framework for Employment Equity in South Africa

The government's vision has been clearly articulated through the enactment of labour laws which are also enforced by Constitutional principles. The legislative imperatives are based on the creation of a democratic society that is characterised by equitable and non-discriminatory practices.

The White Paper on Transformation of the Public Service 1995 was promulgated in order to accelerate transformation in the public service, with special focus on the provision of quality service, and emphasis was placed on the following critical factors:

- Enhancement and maintenance of a coherent, representative and capable public service
- People-driven public service characterised by equity, quality, timeousness and a strong code of ethics
- A committed leadership with a proactive, coherent and visionary approach, in order to identify and ensure effective implementation of relevant interventions
- Creating a conducive work environment that is empowering and motivating to enhance productivity, and also responsive to the challenges of change process

- Diversity management to maximise the benefits of culture change

The Employment Equity Act No. 55 of 1998 was discussed fully in Chapter 3 and the following were identified as critical to effective implementation of EEP:

- A work environment that is non-discriminatory, equitable and promotes fair labour practices
- Development of affirmative action measures that are targeted at removing any possible barriers towards the achievement of EE objectives
- Employee consultation and communication to ensure that employees participate in making the work environment conducive

The White Paper on Affirmative Action in the Public Service of 1998 provides mandatory requirements on development and implementation of affirmative action programmes in the public service. Core principles of affirmative action emphasised integrated human resource management and development, with specific reference to diversity management. WPAAPS also emphasises the importance of utilising affirmative action as an essential tool for achieving the organisation's strategic and operational goals.

The Skills Development Act of 1998 is one of the strategies to address imbalances of the apartheid regime and the following are some of the objectives:

- To develop the skills of the South African workforce by improving the quality of life, as well as ensuring prospects of workers in order to enhance employee labour mobility.
- To encourage employers to use the workplace as an active learning environment where employees are provided opportunities to acquire new skills.

- To improve the employment prospects of persons previously disadvantaged by unfair discrimination and to redress those disadvantages through training and education

The Basic Conditions of Employment Act of 1997 was also discussed in Chapter 3 as one of the transformational labour laws aimed at eliminating discriminatory practices and unfair labour practices. The focus of this Act is on ensuring that conditions of service are fairly implemented to all employees. Provision of reasonable accommodation is also considered in terms of addressing the needs of women, as well as for people from different backgrounds. Matters such as maternity leave and family leave, etc. are included.

5.2.4 Chapter 4: Research Analysis and Interpretation of Results

This study required a survey in order to enhance the conduciveness of DOJ&CD work environment in promoting effective implementation of EEP.

Chapter 4 described the research design, the unit of analysis, sample, data collection and analysis methods, and also the data collection instrument. There were two separate sample groups, namely management and employees, where a questionnaire was utilised to gather information of the perceptions of employees on the effective implementation of Departmental EEP. Management data was collected through structured interview questions which were intended to enhance management's view on the value that EEP adds to Departmental strategic objectives.

Data, once collected, was reorganised statistically and presented graphically in order to make the analysis easily interpreted.

The research findings will be discussed in this chapter, summarising the identified problems and positive perceptions; providing recommendations to address the challenges, highlighting the limitations of the study and a conclusion.

5.3 RESEARCH FINDINGS

The researcher developed an interest in enhancing the effective implementation of the EEP within DOJ&CD, prompted by a need to enhance measures that can be used to create a conducive work environment to ensure implementation of EEP. This led to the main question of the study which is: “What measures are used to implement Employment Equity Programmes in the Department of Justice and Constitutional Development?”

The researcher noted that this question can be answered, in part at least, by determining the conduciveness of the DOJ&CD work environment. Groenewald (2006:2) concurs on the importance of preparing the work environment in order to be receptive to the changes.

5.3.1 Alignment of research findings to research questions

In an attempt to respond to the main question of the study, additional related questions were identified. The information gathered from the Literature Review and Legislative Framework has been used to respond to the research questions.

The researcher noticed that some of the questions concerned employee perceptions of the effectiveness of EEP. The importance of taking into account employee perceptions has been noted by Esterhuizen (2008:3): that they affect the achievement of EE objectives as well as the conduciveness of the work environment. Based on this, the findings of the survey will also be used to respond to the research questions.

The conduciveness of the work environment emphasise the importance of promoting equal opportunity and fair treatment through elimination of unfair discrimination Smith and Roodt (2003:32). The other factors outlined under Literature Review that contribute positively to measures that can be used to create a conducive work environment in implement EEP include:

- Utilisation of Affirmative Action measures to transform the work environment to accommodate and empower designated groups. Coetzee & Vermeulen (2003:18) add to this, describing affirmative action as a purposeful and planned placement or development of competent or potentially competent persons
- Provision of reasonable accommodation in order to create an enabling work environment to designated groups in terms of resources, facilities and an atmosphere conducive for one to realise one's potential
- The transformation of the work environment has been defined in terms of providing efficient and effective service delivery. *The White Paper on Transformation of the Public Service*, as discussed in Chapter 3, confirms this. It outlines the intended purpose of transformation in terms of fulfilling the democratic government's role by enhancing a coherent, representative and capable public service

The dimensions measured through a questionnaire targeted the perceptions of employees regarding the conduciveness of the work environment in promoting implementation of EEP.

Generally there is an indication that employees are content that the DOJ&CD work environment is conducive, based on a positive response to the statement that they would recommend DOJ&CD for employment to a good friend. It was established under the Literature Review that negative perceptions about the implementation of EEP can affect both non-designated and designated groups. The consequences were described as adversely affecting the work environment in terms of high labour turnover, poor service delivery and poor working relationships (Moeti and Zondi, 2010:316, Esterhuizen and Martins, 2008:19).

The survey findings further revealed both positive and negative perceptions of the responses received from the three research questions:

- i. What areas need improvement to enhance the current Departmental EEP?

- ii. Is the Departmental EEP aligned to its strategic objectives?
 - iii. What are the perceptions of employees about the effectiveness of EEP within the DOJ&CD
- Participants indicated their satisfaction with the integration of employment equity on most of human resource processes. It can therefore be accepted that the human resources processes are equitable, non-discriminatory and fairly implemented. In addition, participants' responses agreed that discriminatory practices have been eliminated.
 - An overwhelming response was received (86%) on the fair implementation of conditions of employment. On the other hand, the responses received on the alignment of conditions of employment with EE principles are unclear, as an almost equal number registered agreement and disagreement
 - Participants seem to be satisfied that they are fairly remunerated, although this could be attributed to the fact that Public Service is a unionised work environment, where remuneration is negotiated and agreed upon with the Unions
 - The survey findings revealed that participants are positive about the fact of the Employment Equity Programme adding value, and that it has made a significant contribution to Departmental objectives
 - Participants indicated their satisfaction with opportunities provided to maximise individual potential, where they have sufficient freedom to be creative and develop their career growth
 - Some of the perceptions identified under Literature Review (Chapter 2) showed that designated groups often felt that assignments allocated to them were not meaningful or challenging. It has been interesting to note that the perception within DOJ&CD is different, and that they are happy with their participation in, and contribution to, job assignments

- The diversity management dimension received a positive response, with participants satisfied that it is properly promoted and managed. This was confirmed by the response indicating that communication is good among employees across race.

The other research question, “Are there any areas that need improvement to enhance the current Departmental EEP?” produced a response that might best be evaluated by looking at what the participants identified as areas still in need of attention:

- The participants indicated that there was misalignment of training and development programs with EEP. The importance of aligning these two programs has been greatly emphasised in both the Literature Review and the legislative requirements. The Skills Development Act of 1998, as described in Chapter 3, emphasises the importance of developing the skills of designated people in order to improve their quality of work life, prospects of advancing employment and enhanced performance, as well as service delivery
- Inflexible working hours that do not accommodate designated groups was identified as an area that needed attention. The importance of providing reasonable accommodation to designated groups is both a legislative requirement and a ‘best practice’ as presented in Chapters 2 and 3
- Lack of management commitment to ensure effective implementation of EEP. It has been noted that the successful implementation of EE depends on management commitment. Both the Literature Review and Legislative Framework Chapters emphasised the role expectations from management. This included the responsibility of creating a conducive work environment, as well as integrating EE into Departmental strategic objectives so as to ensure efficient service delivery
- Participants indicated that they had a limited understanding of EE, as well as poor communication amongst staff members. The research findings from Kunene (2005:56) indicate communication as a problem within DOJ&CD. It has also been noted (Chapter 3) that consultation and communication with

employees about EE issues is a legislative requirement. Chapter 2 also identified this as one of the effective strategies adopted as a best practice to ensure employee participation and buy-in, making the work environment as conducive as possible

- The participants indicated that the Departmental EE Plan is not fully implemented, and that it is only implemented for compliance purposes. It is noted that the Department will not realise EE benefits if its objectives are not integrated into Departmental objectives to enhance service delivery.

5.3.2 Findings from dimensions measured through semi-structured interview questions

The structured interview questions were intended to measure management's view on the value that the EEP adds to Departmental strategic objectives. The question that needed to be responded in this case was: "what value does the implementation of the EEP add to the strategic objectives of DOJ&CD?"

This is based on the background where the actual intentions of the legislative framework with reference to the Public Service work environment is on providing efficient service delivery and is classified as a government priority.

- (a) The first dimension measured management's view of the extent of alignment of the EEP to Department strategic objectives.
- A generally positive response was received that alignment existed; however there is still room for improvement in order to enhance implementation
 - The identified concerns from management are that emphasis is more on target achievement than provision of reasonable accommodation in order to retain designated groups. Management acknowledged the Director General's commitment to ensuring equitable representation of the workforce profile

- The areas that need further enhancement are management commitment to achieve EE targets, with particular emphasis on people with disabilities

(b) The second dimension focused on the impact of EE at business unit level.

- Most respondents measured the impact in terms of achievement of EE targets. The indication is that, at business unit level, efforts are made to improve equitable representation of the workforce profile
- A concern was raised about some discomfort experienced by non designated groups on implementation of EE without providing interventions to assist with management of change in order to provide the necessary transformational support
- Significant progress was noted on diversity management where management is optimistic about the absence of racial barriers

(c) The third dimension was based on sourcing management's inputs on strategies of integrating EEP into Departmental strategic priorities.

- Most responses and strategies are fully in line with the legislative requirements. These included the development of EE Plans; enhancement of EE Committees; annual submission of an EE Report to Department of Labour, and inclusion of EE responsibility in the performance agreements of management, in order to make them accountable for non-achievement of EEP at business unit levels
- A need for a holistic approach to people management and alignment to the HR Plan, which in turn is linked to Departmental strategic objectives

(d) The fourth dimension was aimed at management's views on employee participation in order to enhance effective implementation of EEP.

- The majority of participants fully supported employee participation in EEP and expressed its benefits. These benefits included getting employee buy-in for the achievement of a common goal, and employee ownership in creating collective responsibility of all stakeholders
 - Participants indicated that an effective consultation process would ensure transparency and accountability, as well as unity on both designated and non-designated groups, where a harmonious working relationship is embraced
- (e) The fifth dimension requested management to provide strategies to promote equity and fair treatment in the work environment in order to enhance service delivery.

The proposed strategies are grouped into three, namely, strategies for accelerating achievement of EE targets; strategies for enhancing the consultation process and strategies for providing reasonable accommodation for designated groups. These strategies will be briefly discussed below:

- Strategies for accelerating EE targets. The participants indicated the first step as communicating clearly EE targets, in order to ensure their achievement and adherence to them. Other strategies included using vacancies for EE targets; offering employees early retirement without penalty, and incentivising those who achieve EE targets
- Strategies for enhancing the consultation process. Participants proposed the involvement of employees on development and implementation of operational plans at business unit levels
- Provision of reasonable accommodation. Participants proposed strategies such as assistive devices for people with disabilities, training and development programs, participation in exchange programs with other institutions and diversity management

5.4 LIMITATIONS OF THE STUDY

The researcher noted some of the difficulties that caused delays in finalising the study or deviations from the original plan:

- The researcher clarified the objectives of the study with a view to securing support and cooperation from stakeholders. Despite all efforts, difficulties were experienced in getting back the questionnaires on time, where several reminders had to be issued. In some areas the response rate was minimal
- Some questionnaires were not fully completed, where respondents chose not to respond to some of the biographical questions and statements
- The busy schedule of management made it difficult to conduct face-to-face interviews
- Limitations in employees' understanding of EE may affect responses as responses might not truly reflect the EEP status. This was surprising, as the choice of EAC as a sample had been based on their knowledge and involvement in monitoring implementation of the EEP
- Some of the responses appeared to be contradictory, which made it difficult to make a conclusive finding on whether attention is needed to further address the problem
- The element of bias and subjectivity could not be avoided, as some responses could be influenced by individual personal experiences

These limitations were managed by finding alternatives. These assisted in maintaining the integrity, validity and reliability of the survey results.

5.5 RECOMMENDATIONS

Progress in compliance with EEA requirements in DOJ&CD has been noted, based on the responses received from participants. The overall responses clearly indicate that attempts have been made to develop the EEP in compliance with the EEA and other related legislation. It is apparent, however, that DOJ&CD struggles with effective implementation, as most of the questions were focused on employee perceptions of practical application of the EEP. The following are recommendations of measures that should be used to create a conducive work environment to enhance effective implementation of the EEP within DOJ&CD:

- Integration of the EEP into Departmental strategic objectives and alignment with HR processes, such as Succession Planning, Recruitment and Selection
- Enforce management commitment to facilitate implementation of the EEP and develop strategies for holding them accountable, such as inclusion of EE in Performance Agreements
- Increasing EEP awareness and empowerment programs to enable effective and active participation of employees
- Strengthen Monitoring and Evaluation Processes to clarify and reaffirm roles and responsibilities of stakeholders, with specific reference to active functioning of EAC
- Alignment of the EEP with Skills Development Programmes in order to create opportunities for skills empowerment, career growth and to maximise performance efficiency
- Continuing analysis of the needs of designated groups and provision of necessary resources to address the identified needs
- Alignment of transformation programmes in order to create a conducive work environment, such as diversity management and change management, in

order to create and maintain equitable, non-discriminatory policies and practices and fair treatment of all employees

It is believed that the implementation of these recommendations will promote a work environment that will certainly enhance the implementation of the EEP. Effective implementation of the EEP is presumed to have an impact on efficient service delivery, although it was beyond the scope of this study to enhance this connection.

5.6 CONCLUSION

Comparing information gathered from Literature Review, Legislative Framework and the study itself indicates that the Departmental EEP is fully compliant with legislative requirements. The areas of concern are also not substantially different from the prevailing barriers outlined in Chapter 2. The fact that these barriers have a negative impact on implementation of EE indicates that they warrant attention.

Although the survey results indicated problems regarding factors militating against implementation of the EEP in DOJ&CD, it was nonetheless encouraging to note that the positive perceptions outweigh the negative.

The survey results showed that the conduciveness of the DOJ&CD work environment can be improved, especially in terms of integrating the EEP into Departmental strategic objectives, alignment with HR processes and holding management accountable for implementing EEP.

It has also been shown that the conduciveness of the work environment is linked to providing reasonable accommodation to designated groups to maximise their potential in order to enhance service delivery.

The quest for effective implementation of the EEP within DOJ&CD is not wholeheartedly accepted by all employees, and poor communication was identified as being largely responsible for this. The communication problem may limit

employee participation, which may in turn strengthen employee perceptions that EEP is ineffectively implemented.

The limitations of the study have been noted, as well as efforts taken to minimise their effect on the integrity and validity of the results.

The recommendations are based on identified problems, and it is the researcher's belief that identified measures will add value to improving the conduciveness of the work environment, and effective implementation of the EEP, with the ultimate objective of enhancing efficient and effective service delivery.

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APPENDIX 1
PERMISSION REQUEST LETTER



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

BRANCH:

HUMAN RESOURCE BRANCH

Tel:

012 – 315 1029

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Doc Ref/Nr:

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INTERNAL MEMO

DATE:	27 JULY 2011	FILE NR:	
TO:	DEPUTY DIRECTOR GENERAL: CORPORATE SERVICES	FROM:	SYLVIA MEKWA
SUBJECT:	REQUEST TO CONDUCT A SURVEY WITHIN DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT (DOJ&CD)		

1 PURPOSE

- 1.1 The purpose of this memo is to request approval from Deputy Director General: Corporate Service to conduct a survey and distribute questionnaires within DOJ&CD.
- 1.2 To request permission to publish survey results in the dissertation and journal.

2. BACKGROUND

- 2.1 I have registered Masters in Public Administration with University of South Africa and in order to complete this, I am required to submit a research study.
- 2.2 The topic of my research study is "Effective implementation of Employment Equity in the Public Service with specific reference to DOJ&CD. The objective is to identify the conduciveness of the work environment in order to promote the effective implementation of the Employment Equity (EE) within the DOJ&CD.
- 2.3 The survey will be conducted through a questionnaire where employees will be requested to voluntarily participate. Employees who voluntarily agreed to participate will be interviewed using a structured questionnaire. An option will also be provided to employees who want to participate anonymously.
- 2.4 The questionnaire will be based on the perceptions of employees on the effectiveness of EE Program within their work environment.

2.5 The Research study will be published in my dissertation or journals. In addition, the findings and recommendations will be shared with DOJ&CD management in order to add value in terms of enhancing effective implementation of EE Programme.

3. RECOMMENDATIONS

Based on the above background, DDG:CS is requested to grant approval to:

- 3.1 conduct a survey within DOJ&CD
- 3.2 publish research results in a dissertation or journal
- 3.2 share survey results with DOJ&CD management

SYLVIA MEKWA
DIRECTOR: HRM

Approved/Not approved

Comments:


V SHABALALA 02/08/2011

DEPUTY DIRECTOR GENERAL: CORPORATE SERVICES

APPENDIX 2

APPROVAL TO CONDUCT SURVEY WITHIN DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

29 July 2011

Mrs P Disoloane

UNISA

PRETORIA

Dear Mrs Disoloane

**RE: APPROVAL TO CONDUCT SURVEY WITHIN DEPARTMENT OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT (DOJ&CD)**

This serves to confirm that Makupu Sylvia Mekwa has been granted permission to conduct a survey and distribute questionnaires within DOJ&CD in order to complete her Masters in Public Administration.

Approval is also granted for publication of research study results in her dissertation or journal.

The Department acknowledges the importance of continuous improvement in terms of ensuring successful implementation of Employment Equity Programme. Based on this, it will be appreciated if survey results are shared with DOJ&CD management in order to enhance effective implementation of Employment Equity.

Employees will be encouraged to participate voluntarily and the necessary management support will be provided to enable successful completion of her research study.

Yours sincerely


VUSO SHABALALA

DEPUTY DIRECTOR GENERAL: CORPORATE SERVICES

Access to Justice for All

APPENDIX 3
RESEARCH QUESTIONNAIRE

UNIVERSITY OF SOUTH AFRICA

DEPARTMENT OF PUBLIC ADMINISTRATION

FIELD OF STUDY
MASTERS DEGREE IN PUBLIC ADMINISTRATION
YEAR: 2012

QUESTIONNAIRE FOR RESEARCH TITLE:

Effective implementation of an Employment Equity Programme in the Public Service, with specific reference to the Department of Justice and Constitutional Development

PERSONAL DETAILS

SURNAME: MEKWA
NAMES: MAKUPU SYLVIA

STUDENT NUMBER:
07737661

CONTACT DETAILS
CELL NUMBER: 082 464 2605
OFFICE NUMBER: 012 315 1029
E-MAIL ADDRESS: smekwa@justice.gov.za

SUPERVISOR:
MRS VPP DISOLOANE

This questionnaire constitutes part of the survey for a paper to be written in partial fulfillment of the degree of Masters in Public Administration

INTRODUCTION

The purpose of this research is to enhance the implementation of an Employment Equity Programme (EEP) in the Public Service with specific reference to the Department of Justice and Constitutional Development (DOJ&CD).

The objective of the survey is to capture the perceptions of DOJ&CD employees on the effectiveness of the EEP. The questionnaire focuses on the following areas:

- To determine the extent to which the Departmental EEP is aligned to the requirements of Employment Equity Act of 1998 and to DOJ&CD strategic objectives.
- Determining the conduciveness of the work environment to promoting effective implementation of Employment Equity (EE) within the DOJ&CD.

- Recommend strategies that can be adopted to ensure management's commitment to participating and implementing a Departmental EEP.

The findings of this study will be compiled and recommendations forwarded to DOJ&CD management with the ultimate objective of enhancing the effective implementation of EEP.

PARTICIPANTS' GUIDELINES

Your assistance and participation will be appreciated in completing this questionnaire as frankly as possible. The researcher is committed to uphold ethical values and will adhere to ethical conduct as it applies to academic research projects in higher educational institutions in South Africa:

- Your participation is voluntary
- Participants' responses will be treated in the strictest confidence, meaning that anonymity will be guaranteed

INSTRUCTIONS

There is no **RIGHT** or **WRONG** answers, and your honest, anonymous, opinion will be appreciated. The questionnaire is based on personal perceptions.

- Please make your answers as comprehensive as possible
- After completion, please e-mail to smekwa@justice.gov.za or fax to 0865134189.

THANK YOU FOR PARTICIPATION IN THIS SURVEY!!

PART 1: BIOGRAPHICAL BREAKDOWN

1.

Gender:	1	Male	
	2	Female	

2.

Race:	1	Asian	
	2	Black	
	3	Coloured	
	4	White	

3.

1	Administrative	
2	Middle Management	
3	Senior management	

4.

1	EAC: National Office	
2	EAC: Gauteng Region	
3	EAC: Limpopo Region	
4	EAC: Mpumalanga Region	
5	EAC: North West Region	
6	EAC: Northern Cape Region	
7	EAC: Western Cape Region	
8	EAC: Eastern Cape Region	
9	EAC: Kwa-Zulu Natal Region	

5. If you chose one of the options from the preceding question, then state your years of service in the Department.

Service:	Total number of years in one of the branches	
-----------------	--	--

PART 2: GENERAL UNDERSTANDING OF EE PROGRAMME

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
	1	2	3	4	5

1.Human resource processes emphasise EE needs					
2.The Employment Equity Programme adds value to Departmental objectives					
3.The objectives of Employment Equity are understood by all employees within the Department					
4.Employment Equity Programme has makes a significant impact in the Department					
5.Management is committed to implement the Employment Equity Programme					

PART 3: TERMS AND CONDITIONS OF EMPLOYMENT

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
	1	2	3	4	5
1. Conditions of employment are fair					
2. Conditions of employment are aligned to EE principles					

PART 4: JOB ASSIGNMENTS

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
	1	2	3	4	5

1. Designated groups are able to participate and contribute meaningfully to job assignments					
2. Provision is made in my job assignment to enable me to participate fully in the Departmental EE activities					

PART 5: WORK ENVIRONMENT AND FACILITIES

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
	1	2	3	4	5
1. Reasonable accommodation is provided for designated groups					
2. Employees are allowed to work flexi working hours (where operational needs allow) to allow for special childcare needs.					
3. I would recommend to a good friend this department for employment.					
4. Diversity is promoted and properly managed within the Department					

PART 6: TRAINING AND DEVELOPMENT

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
	1	2	3	4	5

1. Training Programmes are aligned to EE objectives					
2. The current informal career development process is helping to develop careers.					
4. Employees have freedom in their jobs to be creative and to grow					

PART 7: PROMOTIONS AND TRANSFERS

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
	1	2	3	4	5
1. Preference is given to people according to EE priorities.					
2. I have the same opportunities here as others of the same ability, experience and education					

PART 8: IMPLEMENTATION OF EMPLOYMENT EQUITY PLAN

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
--	-------------------	--------------------------	-----------------	--------------	-----------------------

	1	2	3	4	5
1. The Departmental EE Plan enforces transformation					
2. All managers demonstrate commitment to ensure effective implementation of EE Plan					
3. The EE Plan is integrated into Departmental strategic objectives, and is one of the priorities					
4. The Departmental EE Plan has been developed for legislative compliance only					

PART 9: CORPORATE CULTURE

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
	1	2	3	4	5
1. Social practices are culture-free.					
2. My workplace is a fun place to work at.					
3. People from different backgrounds / cultures do feel that they belong.					
4. Cultural and religious differences are catered for in the workplace.					

PART 10: RACIAL EQUITY HEADCOUNT

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
	1	2	3	4	5
1. There is sufficient progress made towards achieving racial equity targets in my Business Unit					
2. The Departmental workforce reflects the demographics of the country					
3. Departmental EE targets are achieved					

PART 11: REMUNERATION AND BENEFITS

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
	1	2	3	4	5
1. Remuneration is based on the principle of "equal pay for equal work of equal value".					
2. All forms of discrimination are removed from the benefits					

PART 12: COMMUNICATION

	Don't Know	Strongly disagree	Disagree	Agree	Strongly Agree
	1	2	3	4	5
1. Communication between management and staff is good					
2. Communication between racial groups is good					
3. Employees feel free to express differences that may be due to different cultural backgrounds.					
4. Employees are fully consulted on EE activities					

OTHER
Please specify any other relevant points or issues.

THANK YOU VERY MUCH FOR YOUR SUPPORT

APPENDIX 4
SEMI STRUCTURED INTERVIEW QUESTIONNAIRE

UNIVERSITY OF SOUTH AFRICA

DEPARTMENT OF PUBLIC ADMINISTRATION

FIELD OF STUDY
MASTERS DEGREE IN PUBLIC ADMINISTRATION
YEAR: 2012

QUESTIONNAIRE FOR RESEARCH TITLE:

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NAMES: MAKUPU SYLVIA

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07737661

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	2	Female	

2.

Race:	1	Asian	
	2	Black	
	3	Coloured	
	4	White	

3.

1	Middle Management	
2	Senior Management	

4.

1	Corporate Services	
2	Court Services	
3	DG's Office	
4	Legislative & Constitutional Development	
5	Masters of the High Court	

5. If you chose one of the options from the preceding question, then state your years of service in the Department.

Service:	Total number of years in one of the branches	
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INTERVIEW QUESTIONS

1. In your own view, to what extent is the Departmental Employment Equity Programme aligned to its strategic objectives?

2. Describe the impact of the Employment Equity Programme within your Unit

3. If you were the accounting officer, how would you ensure that the Employment Equity Programme is integrated with Departmental business priorities?

4. For the employment equity programme to be fully implemented there should be effective consultation in order to address specific issues that will promote and enhance the achievement thereof.

Do you agree to this view? If yes, elaborate by indicating the benefits of consultative process.

If you disagree, give reasons for disagreement and indicate disadvantages

5. The objective of the Employment Equity Act of 1998 is to promote equity and fair treatment in the work environment in order to enhance service delivery. What strategies should managers adopt in order to achieve this?

THANK YOU VERY MUCH FOR YOUR PARTICIPATION