AN ANALYSIS OF THE SEXUAL ORIENTATION DISCRIMINATION FRAMEWORK IN THE PUBLIC SECTOR: THE CASE OF STELLENBOSCH MUNICIPALITY

By

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DECLARATION

By submitting this thesis electronically, I declare that the entirety of the work contained therein is my own, original work, that I am the owner of the copyright thereof (unless to the extent explicitly otherwise stated) and that I have not previously in its entirety or in part submitted it for obtaining any qualification.

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ABSTRACT

Sexual orientation (discrimination) as a part of diversity management in organisations is a controversial issue and people in management positions are not always comfortable to address issues relating to gay employees. This is evident from the lack of adequate policies and processes that exist within public organs.

Ignorance and prejudice, heterosexism and homophobia, religious and moral beliefs and stigmatisation contribute to why employees discriminate against their co-workers based on sexual orientation. The following measures can be taken by the organisation in combating this phenomenon:

- Writing anti-discriminatory statements.
- Re-evaluating the current state of the organisational culture and whether it is supportive of gay employees disclosing their sexual orientation at work.
- Developing an employee assistance programme.

The success of these measures will largely depend on the capacity of the Human Resource department in making the organisation more inclusive. Therefore, the Integrated Development Plan of Stellenbosch Municipality as its organisational strategy plays a vital role in this entire process, as it cannot be separated from the Human Resource management strategy of this organisation.

These initiatives will only be effective and efficient if there is commitment from top management as well as the employees to ensure a safe work environment for lesbian, gay and bisexual employees.

OPSOMMING

Seksuele oriëntasie (diskriminasie) as deel van diversiteitsbestuur in organisasies is 'n kontroversiële onderwerp en persone in bestuursposisies is nie altyd gemaklik om kwessies aangaande homoseksuele werknemers aan te roer nie. Dit is sigbaar aan die gebrek aan toepaslike beleide en prosesse wat bestaan in openbare sektor organisasies.

Onkunde en vooroordeel, heteroseksisme en homofobie, geloofs- en morele oortuigings en stigmatisering is van die redes waarom werknemers op grond van seksuele oriëntasie teen hul kollegas diskrimineer. Die organisasie kan die volgende maatreëls toepas om diskriminasie op grond van seksuele oriëntasie te bekamp:

- Skriftelike anti-diskriminerende verklarings.
- 'n Herondersoek van die huidige stand van die organisasiekultuur om te bepaal hoe ondersteunend die huidige kultuur is ten opsigte van werknemers wat hul seksuele oriëntasie by die werkplek wil bekendmaak.
- Die ontwikkeling van 'n werknemerbystandprogram.

Die sukses van hierdie maatreëls sal grootliks afhang van die kapasiteit van die departement Menslike Hulpbronne om die organisasie meer inklusief te maak. Daarom speel die Geïntegreerde Ontwikkelingsplan van Stellenbosch Munisipaliteit as organisatoriese strategie 'n belangrike rol in hierdie hele proses, aangesien dit nie van die Menslike Hulpbronne-bestuurstrategie van die organisasie geskei kan word nie.

Hierdie inisiatiewe sal slegs doeltreffend en doelmatig wees as topbestuur en werknemers hulle daartoe verbind om 'n veilige werkomgewing vir lesbiese, gay` en biseksuele werknemers te verseker.

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CHAPTER 1.
INTRODUCTION

1.1   Background

Since the democratisation of South Africa in 1994, many acts and policies have been passed that have had far-reaching implications on how lesbian, gay and bisexual (LGB) employees have been or are being perceived in the public domain. This has a direct impact on the management style of municipalities and the strategic planning in these organisations.

Human Resource (HR) management plays an important role in the organisation, as its core function is to focus on people-oriented programmes and policies whereby staff members can be developed.

After 14 years of democracy, LGBs experience more legal and social freedom. It is this freedom that made it possible for people with sexual orientation issues to be open to who they are in the workplace. This, however, does not mean that they are being accepted for who they are.

Little data exist on LGBs as employees in the public sector, mainly because this topic is so controversial, and because there are no clear policies that guide the process of sexual orientation discrimination within organisations (Dipboye & Colella, 2005a:3).

1.2   Rationale for study

Unlike visible forms of diversity such as gender, race and disability, sexual orientation can be hidden. Employees will hide the fact that they are in doubt of their sexual orientation, as it is perceived as a safe mechanism to avoid ostracism or other forms of discrimination (Nangeroni, 2007; Wintemute, 1995:14).

Employees living with this type of fear will not disclose their sexual orientation, as they are afraid of the consequences of such disclosure. Although the Constitution of the RSA (108 of 1996) is there to protect these vulnerable groups, it is not always reflected in practice due to inadequate policy systems to address these issues in the workplace (Deitch, Butch & Brief, 2004:199-200). Therefore, the issue is that organisations should place more emphasis on HR practices as a mechanism of steering the transformation process by focusing on organisational policies such as diversity policies and employee assistance programmes (EAPs) to minimise the risk of sexual orientation discrimination.

Stellenbosch Municipality will be used as case study to illustrate the abovementioned arguments. After Drakenstein Municipality, this municipality is the second largest municipality within the Cape Winelands District Municipality. Stellenbosch Municipality amalgamated with the local municipalities of Pniel and Franschhoek to form the Greater Stellenbosch Municipality. Legislation tasks municipalities with delivering services to their communities within their jurisdiction, and therefore they need staff members that can be comfortable and open in their work environment, so that services can be delivered effectively and efficiently.

The researcher has an interest in this particular field of study, as little research has been conducted on this matter. In the context of South Africa, it is difficult to engage in such studies due to the diverse cultures and beliefs prevailing in the Country. The purpose of this study is to

- evaluate literature on diversity management and specifically sexual orientation discrimination in the workplace and how best to deal with it on an organisational level;
- determine whether a framework regarding sexual orientation discrimination exists within the Greater Stellenbosch Municipality; and
- make recommendations on how the Municipality can become inclusive.

1.3   Research question

Even though the Constitution and other legislation clearly provide freedom from discrimination based on sexual orientation, it is still inadequately addressed within public sector organs. Therefore, the researcher identified the following research question:

What is the framework for dealing with sexual orientation discrimination at Stellenbosch Municipality?

1.4   Research objectives

With the above research question in mind, this study aims at achieving the following objectives:

- To explain the theoretical and legislative aspects of diversity management.
- To focus on sexual orientation discrimination and define key concepts.
- To analyse Stellenbosch Municipality as a case study at the hand of the theory based on the literature study.
- To make recommendations based on these findings on how to make the Municipality more inclusive.

1.5   Research design

A theoretical and empirical study was conducted to address the research question, for which a literature study involving current literature on the subject of sexual orientation discrimination was required. Throughout the research process, primary and secondary data was collected to provide qualitative results. This enabled the researcher to make recommendations.

This study will make use of an ethnographic research design – which will be based on a case study design. Qualitative data is the main source of information when dealing with a case study design, as the main objective is to provide an in-depth description of the case study at hand, in this case Stellenbosch Municipality (Mouton, 2001:149–154).

1.6   Research methodology

The focus of this study is a documentation analysis method in order to acquire the information needed to complete this research. For the purpose of this study the researcher focused specifically on the Human Resources department.

Individual interviews were conducted as a means of gathering primary data. Parties that were interviewed include the Recruitment and Selection Officer, Head: Skills Development, Head: Recruitment and Selection, and the Head: Labour Relations. These interviews were semi-structured, as different themes relating to the subject at hand was raised with the interviewees. In some interviews specific questions were asked based on the specific organisational context in relation to the research topic (Welman, Kruger & Mitchell, 2005:166).

E-mails and telephonic contact were used to collect data on an informal basis during the study. A qualitative research approach is best suited as it provides answers to why things are happening as they do and it will present a broader understanding on how theory is implemented in practice.

Stellenbosch Municipality employees 1290 people, which is spread across nine directorates and sub directorates and was used as a case study in order to discover new general problems as well as to identify possible theoretical relations that were previously not apparent.

1.7   Overview of chapters

The thesis comprise of six chapters. Chapter 1 highlights the research question that will guide this research, by emphasising the objectives and the methodology followed in order to answer the research question.

Chapter 2 includes the review of the relevant and related literature on diversity management, of which sexual orientation is one component. Sexual orientation discrimination is discussed in detail.

Chapter 3 entails a review of the legal framework pertaining to sexual orientation discrimination. Relevant pieces of legislation that have an impact on sexual orientation discrimination are examined.

Chapter 4 focuses on Stellenbosch Municipality as a case study, based on empirical data obtained through interviews with the relevant officials.

Chapter 5 analyses Stellenbosch Municipality as case study, and finally, conclusions and recommendations are provided in Chapter 6.

1.8 Conclusion

Sexual orientation discrimination is not a popular dimension of diversity management. People are scared to engage in talks concerning LGB employees in the workplace, mainly because they do not know how to approach the situation due to a lack of clear guidelines on how to handle sexual orientation discrimination.

As no clear policies exist to guide this process and little data exists on the experience of LGB employees in the public workplace, it is evident that this subject needs to be explored. This issue needs to be addressed by developing adequate diversity management policies, but this will depend on the capacity of the HR department as the heart and soul of any organisation.

The following chapter will explore diversity management as a means to address the issue of sexual orientation discrimination.

CHAPTER 2.
MANAGING DIVERSITY BY EMPHASISING SEXUAL ORIENTATION IN THE ORGANISATION

2.1   Introduction

Addressing the issue of sexual orientation and possible discrimination is not always easy, as the modern work environment is constantly confronted with people of diverse backgrounds and beliefs. However, to ensure an efficient and effective work environment not only the commitment from top managers is needed, but also the commitment from all employees in the organisation. Therefore, change can only be embraced if communication channels are open, and carried over effectively (Erasmus & Van Dyk, 1999).

The aim of this chapter is to provide a theoretical background on discrimination based on sexual orientation. This will be done by firstly defining diversity management and key concepts; secondly by discussing sexual orientation discrimination and distinguishing between the variables of sexual orientation, gender identity and sexual identity; thirdly by discussing the factors that lead to sexual orientation discrimination; and finally by discussing the necessary interventions that can be followed to combat sexual orientation discrimination, by focusing on EAPs, the role of organisational culture and HR practice in the organisation.

2.2   Managing diversity in the organisation

Public institutions should realise that merely stating compliance with employment equity legislation and other legislation is not enough without the proper policies and procedures in place to support it. Emphasis should be placed on the driving force for managing diversity in the organisation. This driving force is usually what the organisation wants to achieve and it should be clearly stated in the mission and vision of the organisation (Grobler, Wärnich, Carrell, Elbert & Hatfield, 2006:75; Harvey, 2005a:3–4).

Discrimination and diversity can be seen as distinct concepts, as achieving diversity does not always involve reductions in discriminatory behaviour, and the elimination of discrimination does not always ensure diversity (Arthur & Doverspike, 2005:305). In order to obtain a concise understanding of diversity, it should be looked at how diversity is defined.

Diversity can be defined as a process where recognition is given to groups of people who share common traits, which can either unite or divide people (Grobler et al. 2006:75). Harvey (2005a:3), however, states that diversity encapsulates the social identities that can affect workplace interactions and therefore require new ways of interaction among individuals and

groups and systematic changes in the way that organisations function. Therefore, the core meaning of these definitions is that there are differences among people. These differences must be managed. Thomas (1996), as cited by Grobler et al. (2006: 75), defines the management of diversity as follows:

> *A planned systematic and comprehensive managerial process for developing an organisational environment in which all employees with their similarities and differences can contribute to the strategic and competitive advantages of the organisation, and where no one is excluded on the basis of factors unrelated to productivity.*

Thomas's definition of the management of diversity emphasises that diversity is a process that requires changes in the organisational culture to enable all workers to achieve their full potential (Harvey, 2005b:3–4). According to Grobler et al. (2006:75), diversity has three working definitions in the organisation:

- The politically correct term for employment equity or affirmative action.
- The recruitment and selection of ethnic groups and women.
- The management of individuals sharing a broad range of common traits.

Van Knippenberg, De Dreu and Homan (2004:1008) refer to diversity as an almost infinite number of dimensions, ranging from age to nationality, from religious background to functional background, from task skills to relational skills, and from political preference to sexual preference.

Winfield and Spielman (1995); Button (2001:17); Trau and Härtel (2002:1); and Riccucci and Gossett (1996:175) also highlight the importance of sexual orientation discrimination in diversity management. It should be acknowledged that many organisations do have diversity programmes in place, but many of these programmes exclude sexual orientation discrimination and therefore send out signals that diversity only refers or relates to issues with which the organisation feels comfortable (Day & Schoenrade 1997:147; Trau & Härtel, 2002:2).

The proper management of diversity depends on diversity programmes offered at institutions, and the success of these programmes can be measured by conducting audits. Based on this a good indication will be drawn of how the organisation manages diversity.

2.2.1   Diversity programmes

Various approaches can be used in order to initiate diversity programmes. For the purpose of this study the following three approaches have been identified (Mathis & Jackson, 1999:40–41):

- **Traditional**: Here the requirement is that diverse individuals must be assimilated into the workforce through the use of affirmative action programmes.
- **Understanding**: The ability of the employees must be expanded in order for them to understand, accept and value differences among co-workers.
- **Managing**. The management of diversity is a continuing process requiring a variety of proactive efforts by employers, managers and employees.

Diversity programmes are used for internal benefits regarding diversity awareness and they send out signals about the organisation (Martins & Parsons, 2007:865). Organisations must realise that the management of diversity is not a short-term process but should be seen as long-term one. It demands top management's identification of diversity management issues and commitment to set in motion mechanisms to access the potential of all employees, with the aim of correcting imbalances in the workplace (Grobler et al., 2006:75).

Employees with diverse backgrounds and alternative lifestyles are characteristic of a changing workforce. It demands that management must be pro-active in developing diversity programmes that can reflect what is happening in society. It is becoming more evident that employers view diversity programmes as a type of training, where the goals are to change individuals' attitudes, eliminating subconscious stereotypes, increasing sensitivity to minority issues and diversity concerns, and informing employees on legal and policy issues (Arthur & Doverspike, 2005:317; Roberson & Stevens, 2006:379).

Arthur and Doverspike (2005:317–318), in their analysis of diversity in the workplace, found that for diversity training [programmes] to be successful the following elements are required:

- Avoid ironic reversal training to dispel rather than avoid stereotypes.
- Incorporate steps for translating changes in attitudes into changes in behaviour.
- Provide sufficient time for training.
- Ensure that training is not simply an expression of the trainer's own values or agenda.
- Avoid training that comes across as simply political correctness.
- Define the goal of diversity training clearly.
- Ensure top management and supervisor support.
- Integrate diversity training with affirmative action efforts.

Diversity programmes is a new concept in public and private sector institutions in South Africa, and it has not been met with great success in the Country due to the following shortcomings (Grobler et al., 2006:79):

- No follow-up activities after the initial training. After the training has been done no mechanism is in place to do proper follow-up on whether the knowledge the employees has acquired can be applied to the workplace. Usually no follow-up sessions are scheduled after the initial training, as budgets are limited.
- Few or no incentives for managers to increase the diversity of their work groups. Managers are not informed about the impact these programmes can have on their overall performance, as diversity is not usually linked to performance management.
- Top management's view of diversity as an HR management issue, and not as a key to the organisation's long-term success. This is due to the lack of interest by top management.
- The attitudes towards diversity within organisations depend on the people being consulted. Therefore, all employees and not just certain individuals should be consulted on which diversity management problems should be addressed in the organisation.

Nonetheless, for diversity programmes to add value to the organisation, the education and training acquired must be sensitive not only to LGB employees seeking support, but also to heterosexual employees (Winfield & Spielman, 1995). Umphress, Smith-Crowe, Brief, Dietz and Watkins (2007:397) emphasise that when these programmes are designed, managers should bear in mind Aristotle's hypothesis that individuals who are similar to one another become friends and those who are dissimilar do not.

This hypothesis can be applied when diversity programmes are being designed, as a reminder that the indented audience differ in aspects such as level of education, innumeracy, and so forth, which can impede upon the programme. The success of any diversity programme will depend on whether it addresses an issue like sexual orientation discrimination in a manner that can actually have an impact on the attitude of employees towards gay people within the organisation. This can be measured by diversity audits, which should be undertaken in all organisations.

2.2.2   Diversity audits

Harvey (2005b:313) defines diversity audits as an evaluation of an organisation's diversity efforts, which are based on information about the status of diversity within the organisation. In

other words, this audit gives an indication of where an organisation is now and where it would like to be in terms of diversity (Human, 2005:77).

According to Human (2005:77–78), these audits can be divided into three units, namely:

- The audits of workforce composition, policies and procedure. Human (2005:77–78) defines this as a framework for setting goals and targets to improve the participation of non-dominant group members at various organisational levels.
- An audit of HR policies and procedures. Human (2005:77–78) states that by reviewing the HR policies and procedures, the official conducting the audit must identify policies and practices that act as barriers to the appointment of non-dominant group members, leading to direct or indirect discrimination.
- An audit of attitudes and perceptions. Human (2005:77–78) states that this type of audit provides insight into how various constituencies in the organisation perceive its performance with respect to diversity-related issues.

Through the whole diversity management process, communication will play a vital role. This, however, will depend on the sensitivity of the language being used to create a more inclusive work environment without alienating employees according to their sexual preferences (Grobler et al., 2006:80).

Diversity is a process that requires changes in the organisational culture to enable all workers to achieve their full potential (Mathis & Jackson, 1999:3–4). Diversity can therefore not be seen as separate from employment equity or affirmative action, especially in a young democracy such as that of South Africa (Grobler et al., 2006:78). The management of diversity issues, such as sexual orientation discrimination in the workplace, will therefore only contribute to the success of the organisation.

Diversity audits play an important role in assessing whether an organisation has attained its diversity objectives, but in order to manage sexual orientation discrimination, it is important to understand the concept as well as its impact in the workplace.

2.3 Sexual orientation discrimination

Any form of discrimination can be considered to have an emotional impact on the person involved, but employees are still reluctant to report such behaviour directed at them. Despite the low levels of reporting of discriminatory behaviour, it still occurs. Discrimination based on sexual orientation should not be considered in a vacuum, but rather in relation to the broader work environment (Griffith & Hebl, 2002:1191; Ragins, Cornwell & Miller, 2003:71).

When approaching a sensitive topic such as sexual orientation discrimination, it is important to distinguish between sexual orientation, gender identity and sexual identity, as these variables are interdependent (Nangeroni, 2007). Many employers are not aware of the differences between these variables, as it can be confusing.

Wintemute (1995:6) views sexual orientation as a complex phenomenon that has several senses. Wintemute argues that sexual orientation is indicative of a person's choice to engage in 'emotional-sexual' contact. It can take the form of either being sexually attracted to persons of the same sex (gay or lesbian), persons of the opposite sex (heterosexual) or persons of both sexes (bisexual). Breytenbach (2000:25), on the other hand, gives a more elaborative definition by stating that "sexual orientation is a person's preference to gratify sexual and erotic feelings, thoughts, fantasies, and behaviour, toward people of the same or other sex", whereas gender identity is more focused on how one perceive oneself: man, woman, or a combination of both. A person might have a penis but prefer to relate socially as a woman (Nangeroni, 2007). Sexual identity is more directed at how a person sees himself or herself physically: male, female, or in between. Someone might for example be born female but wishes to see her body as male in all aspects, meaning her sexual identity is male (Nangeroni, 2007).

Discrimination based on sexual orientation, however, can be defined as negative actions that are directed at LGBs because of their orientation. It (directly) involves organisational policies or decisions, as it includes interpersonal animosity from co-workers or supervisors, offensive jokes and comments regarding gays, verbal and sexual harassment, and even physical violence (Deitch et al., 2004:200). Wintemute (1995:10) gives a more simplified definition by stating that discrimination based on sexual orientation occurs when one person discriminates directly (formal) or indirectly (informal) against another person based on that person's sexual orientation.

Deitch et al. (2004:199–201) emphasise that discrimination based on one's sexual orientation is rather common. They describe formal sexual orientation discrimination as involving institutionalised procedures against LGBs. These procedures include restricting job duties, passing an employee over for promotions, or failing to equitably reward an employee due to his/her sexual orientation.

Informal sexual orientation discrimination can be viewed as negative actions directed at LGBs based on their sexual orientation that does not directly involve organisational policies. This usually manifests itself in the form of interpersonal animosity from co-workers or supervisors and derogatory jokes and comments (Deitch et al., 2004:199–201). It is this fear of being discriminated against that causes LGB employees to conceal their orientation (Correia-Hirata

& Kleiner, 2001:92–93; Day & Schoenrade, 2000:347–348; Ragins & Cornwell, 2001:1246). These authors also acknowledge the fact that the informal type of discrimination tends to be more common in the workplace.

It is important to understand the significance of sexual orientation discrimination, and that it should not be limited to the definitions listed above. Sexual orientation discrimination covers a wide range, from implicit events such as repeated comments and questions relating to marital status to explicit, malicious, anti-gay jokes (Dawson, 2005:46). This fear of discriminatory behaviour often leads to LGBs avoiding disclosure of their sexual orientation, which impact negatively on them. This impact can be of a psychological nature, which could result in decreased productivity or efficiency resulting from emotional trauma, non-cohesive work teams, poor communication or destructive conflict among workers (Day & Schoenrade, 1997:147).

This psychological effects can further manifest in the form of stress and anxiety and may result in dissatisfaction and feeling misunderstood, pressured and detached (Dawson, 2005:46; Day & Schoenrade, 2000:348; Deitch, Butch, Brief, Borsky, Chan & Bradley, 2002:15).

LGB employees face challenges that are unique to those faced by other minority groups in SA. Institutions in the public arena are increasingly acknowledging their commitment to create discrimination-free workplaces for LGB employees and some organisations also include sexual orientation as a protected clause in their anti-discriminatory policies as a mechanism to adhere to the legislative requirements (Day & Schoenrade, 1997:148; Ragins & Wiethoff, 2005:177; Riccucci & Gossett, 1996:175).

However, expressing commitment and anti-discriminatory policies are only part of diversity management. It is therefore important to understand the factors contributing to sexual orientation discrimination in order to coherently manage diversity.

2.4   Factors contributing to sexual orientation discrimination

Various reasons exist for sexual orientation discrimination. Prominent are the following:

- Ignorance and prejudice;
- Heterosexism and homophobia;
- Religious and moral beliefs; and
- Stigmatisation

Ignorance and prejudice remain active in the workplace, even though the South African legal environment has changed over the last couple of years. Even though LGBs cannot be dismissed on the grounds of their sexual orientation, they still need to deal with misperceptions of the broader population who, in their ignorance, still see homosexuality as unnatural, non-African, sinful, sick and perverted (Murray & Viljoen, 2007). Ultimately these misperceptions result in discrimination and victimisation, which cause these individuals to refrain from disclosing their sexual orientation (Day & Schoenrade, 2000:348; Oswald, 2007:928–929).

According to Deitch et al. (2004:195–199), people discriminate against others based on their sexual orientation because of heterosexism. Heterosexism, as defined by Ragins et al. (2003:48), is more of an ideological system that denies, denigrates and stigmatises any non-heterosexual form of behaviour, relationship or community and usually includes anti-gay attitudes, prejudice and discriminatory behaviour. Homophobia, the extreme aversion to homosexuality, is another reason why people discriminate against their co-workers in the workplace (Deitch et al., 2004:195–199).

Religious and moral beliefs are probably the most common reasons for sexual discrimination, as individuals justify their discrimination against LGB employees based on biblical interpretation (Chung, 2001:150-154; Winfield & Spielman, 1995:53). Members of religious groups tend to consider LGBs as individuals with a lack of moral character mainly because of their chosen lifestyles (Correia-Hirata & Kleiner, 2001:92).

The misperception of the association of Aids with homosexuality leads to the stigmatisation of LGBs (Deitch et al., 2004:190; Ragins et al., 2003:49).

Deitch et al. (2004:205–211) outline the following probable factors relating to discrimination based on sexual orientation in the workplace:

- Organisational features – the organisation might be structured in a way that a person feels threatened to reveal his/her true identity.
- Co-workers and supervisors – their attitudes towards LGB workers in general.
- Disclosure decisions – who the LGB employee can confide in.

There are numerous reasons why people discriminate against others based on their sexual orientation and this may result in feelings of hopelessness and resignation (Dawson 2005:47). Dawson continues by stating that LGB employees who are exposed to these kinds of environments often experience anger, low self-esteem, lower job satisfaction and withdrawal from the work and the organisation, often accompanied by feelings of isolation and physiological and psychological responses to stress. It is up to the organisation to deliberately

address sexual orientation discrimination in the workplace. Interventions toward this goal will be dealt with in the next section.

2.5 Interventions to combat sexual orientation discrimination in the organisation

Even though the legal environment in South Africa has changed over the last couple of years, discrimination against LGB employees still occurs. Therefore, cultural and social bias are important factors as to why employees are reluctant to report discriminatory behaviour directed at them (Chung, 2001:153; Riccucci & Gossett, 1996:176; Winfield & Spielman, 1995:53).

The minimisation of the risk of sexual orientation discrimination in the workplace will depend on the following organisational initiatives:

- Written anti-discriminatory statements
- Organisational culture and its effect
- Employee assistance programmes
- HR practices

These initiatives are fundamental in combating sexual orientation discrimination. They will be discussed in the next section in order to get an understanding of the role that the organisation can play in combating sexual orientation discrimination.

2.5.1 Written anti-discriminatory statements

Every organisation should have a clear written policy regarding sexual orientation discrimination. Even if it is already part of legislature, written anti-discriminatory statements are important to relieve the anxiety and stress that LGB employees might experience. These statements should reflect the organisation's view on sexual orientation, and send a positive message to all workers that everyone will be respected and treated fairly (Button, 2001:17; Dawson, 2005: 47; Day & Schoenrade, 2000:348).

However, for these anti-discrimination policy statements to be effective, it should receive top management's support. Without such support, other managers and employees may not believe in the seriousness of these policies (Dawson, 2005: 47; Day & Schoenrade, 2000:348; Trau & Härtel, 2002:15).

These policy statements will give an indication that the organisation does not discriminate based on sexual orientation and will act as affirmation and support for non-discriminatory behaviour (Button, 2001:17). In their analysis of gay men and gay women disclosing their

sexual orientation at work, Griffith and Hebl (2002) found that LGB employees who work in organisations that have formal anti-discrimination policies, compared to organisations that lack these policies, are less inclined to report job discrimination, experience more favourable co-worker reactions and indicate more positive treatment from their supervisors. This clearly reflects the positive impact such policies have on the work environment.

However, these statements will only be effective if it is communicated through to the rest of the organisation, and if a culture for change is prompted. The next sections will deal with organisational culture and what its effects are and can be on sexual orientation discrimination.

2.5.2   *Organisational culture*

Gibson, Ivancevich, Donnelly and Konopaske (2006:33) state that organisational culture involves shared expectations, values and attitudes where organisational culture exerts influence on individuals, groups and organisational processes. This indicates that organisational culture provides and encourages a form of stability as well as a sense of organisational identity. It can also be noted that society's values have an impact on the values of the organisation, because of the interactive nature of work (Gibson et al., 2006:32).

An organisation's culture can be either negative or positive. It is negative when its focus is to hinder behaviour and disrupt group effectiveness (Gibson et al., 2006:8). This type of negative culture manifests itself in the form of discriminatory remarks and other inappropriate behaviour directed at other employees. Positive organisational culture does the exact opposite and promotes organisational cohesiveness (Gibson et al., 2006:32).

This organisational supportiveness signals to homosexual workers that the organisation is a safe place in which they can disclose their sexual orientation (Griffith & Hebl, 2002:1192). Ragins and Cornwell (2001:1244) found that organisations with cultures that are supportive of homosexual employees tend to have formal policies that forbid discrimination against gay employees. They also conclude that LGB employees are less likely to report discrimination at the workplace because of the supportive policies that exist.

Day and Schoenrade (1997:147–163) acknowledge that organisational culture and policies are important indicators influencing where homosexual employees choose to work. However, culture and policies alone do not ensure a positive working environment. According to Trau and Härtel (2002:13), organisations should also focus on the following:

- Continuous commitment from the leadership hierarchy towards sexual diversity.
- Education and training for heterosexuals to promote understanding of sexual issues relating to sexual orientation whereby attitudes toward sexual minorities can be

- Recognition and on-going support of sexual minorities to enhance their support, provision of equal rights benefits, and consulting the homosexual segment of the workforce.

According to Robbins and Barnwell (2002:379), culture differs from organisation to organisation, mainly because of the following characteristics:

- Individual initiative. This involves the degree of responsibility, freedom and independence that an individual has.
- Risk tolerance. Employees are encouraged to be aggressive, innovative and risk-seeking.
- Directions. The organisation must create clear objectives and performance objectives.
- Integration. Units in the organisation are encouraged to operate in a coordinated manner.
- Management support. Managers must provide clear communication, assistance and support to employees.
- Control. The number of rules and regulations and the amount of direct supervision that are used to oversee and control employee behaviour.
- Identity. The degree to which members identify with the organisation as a whole.
- Reward system. This entails reward allocations being based on an employee's performance criteria in contrast to seniority, and favouritism.
- Conflict tolerance. The degree to which employees are encouraged to air conflicts and criticism openly.
- Communication patterns. The degree to which organisational communication is restricted to the formal hierarchy of authority.

Based on some of these characteristics, assumptions can be made about how tolerant and accepting an organisation is to LGB employees. According to Grobler et al. (2006), the socialisation process can influence this acceptance. The socialisation process can be defined as the process whereby new employees are incorporated into the culture of the organisation.

This usually involves the transmission of values, assumptions and attitudes (Gibson et al., 2006:41).

Gibson et al. (2006:50) view socialisation as an organisational integration, as it is a strategy for achieving congruence of organisational and individual goals. Socialisation can be used as a mechanism to create a better work environment for LGB employees, as it is a continuous process of learning and adapting.

From an organisational point of view, socialisation is important, but individuals also play a role. As proposed by Correia-Hirata and Kleiner (2000) and Deitch et al. (2004), an individual can follow the following strategies in order to combat sexual orientation discrimination:

- The affected party must confide in people who are in a position of influence, with whom the issue can be discussed in confidence, and ask for their advice on how to raise the issue with management.
- A network must be formed with other LGBs in the organisation and the issue should be discussed with them to determine if they are willing to offer their support.
- Employers must encourage their workers through education on sexual orientation discrimination as part of staff training programmes not to discriminate against their colleagues.
- The employee must have a good working knowledge of why it is important that the employer must provide an inclusive environment. This can be approached from several angles:
  Productivity;
  Fairness and equity; and
  Employee/public relations.

Gelfand, Nishii, Raver and Sneider (2005: 432) maintain that an organisational climate that supports diversity goes hand-in-hand with the discouragement of discrimination at the individual level. However, managers should be aware of the cultural differences that exist among these individuals.

2.5.3 *Employee assistance programmes*
According to Cunningham (1994:5), EAPs can be referred to as "programmes that provide direct service to employees who are experiencing problems in their personal life or workplace which range from supporting employees during periods of serious change and trouble". Employee assistant managers must demonstrate capability in the assessment of such problems, which include issues like sexual orientation and substance abuse, and the ability to

use resources intended to address these issues (Gibson et al., 217–218; Grobler et al., 2006:396–397).

EAPs are designed to address a wide range of stress-related problems, which encompass both work- and non-work-related problems, and include emotional difficulties, substance abuse, family and marital discord, and other problems (Gibson et al., 2006:217). These programmes are there to overcome personal crises and seem to be valuable to employees seeking help (Grobler et al., 2006:396).

Van den Bergh (2000:1) states that EAPs have expanded to serve employees affected by a variety of stressors associated with working in rapidly changing workplaces as well as with the requirements for balancing work and family issues. According to Gibson et al. (2006:217), EAPs are usually based on the traditional medical approach treatment and will include elements such as the following:

- **Diagnoses**: an employee with a problem asks help; EAP staff attempt to diagnose the problem.
- **Treatment**: counselling or supportive therapy is provided. If in-house EAP staff are unable to help, employees may be referred to appropriate professionals.
- **Screening**: periodic examination of employees in highly stressful jobs is provided to detect early indications of problems.
- **Prevention**: education and persuasion are used to convince employees at high risk that something must be done to assist them.

EAPs often have a broader and more comprehensive approach to helping employees identify and solve personal problems regardless of the cause, and the success of these programmes cannot be ignored (Grobler et al., 2006:396). Grobler et al. (2006:397) ascribe the success of these programmes to

- the fact that problems are being identified early;
- the use of positive and negative employer reinforcement to motivate EAP participants to continue treatment; and
- EAP follow-up monitoring to minimise relapse problems.

The success of EAPs depends on the amount of trust that exists between the parties. Gibson et al. (2006: 218) say employees must trust that

- the programme can and will provide real help;
- confidentiality will be maintained; and

- the use of the programme carries no negative implications for job security or future advancement.

It is clear from these authors that if employees do not trust the credibility and reliability of the EAP they will not participate. EAPs with no participants cannot have a positive effect on the prevention of emerging problems. Therefore, if the organisation does not have the capacity to run an EAP they should consider outsourcing the function to a professional company (Grobler et al., 2006:396–399).

Grobler et al. (2006:398–399) list the following as essential factors for running an effective EAP in an organisation:

- Confidentiality. Employees must have the assurance that information about their problem will be kept confidential. Employers should only be informed that the employee is continuing to receive assistance.
- Normal disciplinary procedures. No employee should be treated indulgently or unkindly due to participation in an EAP.
- Voluntary participation. Employees must be urged to participate in these programmes voluntarily for any chance of success.
- Job security. No employee will be affected by disciplinary or other actions because they participated in the programme.
- Management support. Written assurance must be given by management that the company is committed to the process.
- Accessibility. Employees must know how and for what kind of problems they can receive assistance. A broad range of assistance ensures a better image and greater use of resources.
- Follow-up. Not all problems can be addressed in a short period of time, therefore periodic follow-ups must be done to ensure a high recovery rate.
- Separate location. The programme should be presented away from the workplace to help ensure privacy.

EAPs still have along way to go in South Africa, especially in public sector institutions (Grobler et al., 2006:396–399). In addition, they are expensive (Grobler et al., 2006:398) and are therefore mainly presented in larger organisations. These programmes are beneficial to both the employer and employee, as they contribute to the reduction of unwanted behaviour in the workplace, and assist employees who suffer from psychological trauma because of discrimination (Darick, 1999:3–13).

2.5.4   Human resource practices

The materialisation of above-mentioned processes (diversity audits, organisational culture and EAP), will largely depend on the HR capacity within the organisation. The HR practitioner or manager should be aware that discrimination is inevitable, that people targeted will change, but that discrimination itself will continue (Dipboye & Colella, 2005:456). Arthur and Doverspike (2005:305–327) feel that HR functions provide a direct means of solving discrimination in the workplace. By adapting their practices, the HR department can reduce discrimination and increase diversity by focusing on -

- changing the behaviour of the majority of employees by means of training, where employees are taught to appreciate diversity and be sensitive to discriminatory behaviour; and
- initiating procedures that will minimise the occurrence of discriminatory behaviour directed at minority groups in the workplace.

Therefore, three processes of the HR function have been identified that play an important role in reducing discriminatory behaviour. They are the following:

- The recruitment process
- The selection process
- The induction process

2.5.4.1   The recruitment and selection process

Recruitment can be defined as a process of attracting qualified applicants to the organisation to determine their suitability (Mathis & Jackson, 1999:70). This will depend on the selection process. Mathis and Jackson (1999: 76) define selection as a process of choosing individuals who have the relevant qualifications to fill the post. Certain techniques can be used such as initial screening, pre-employment testing, interviews and reference checks to assist in this process (Grobler et al., 2006:187–176).

When recruitment and selection are conducted, organisations should adhere to the Labour Relations Act, [(No. 66 of 1995) as amended (Act 12 of 2002)], the Basic Conditions of Employment Act, [(No. 75 of 1997) as amended (Act 11 of 2002)], and the Employment Equity Act, (No. 55 of 1998) (Grobler et al., 2006:182–183). These legal requirements will be discussed in Chapter 3.

The recruitment and selection process is the ideal arena for the organisation to bring across its viewpoint on diversity management, and especially on sexual orientation discrimination. This will indicate to the applicant how committed the organisation is in fighting this form of

discrimination, and what the organisation can expect from the applicant if he/she is successful in the job application.

2.5.4.2   Induction

After a suitable candidate has been recruited and selected, he/she must be introduced to the organisation. This is known as induction (Grobler et al., 2006:9). This process is a neglected area of HR management. The main purpose of this process is to integrate employees into the organisation where they become acquainted with organisational values, beliefs and traditions, also known as the organisation's culture (Grobler et al., 2006:206). Another purpose is to express the employer's expectations and values and to indicate the employer's commitment to equity and diversity (Grobler et al., 2006:206–213).

During the recruitment, selection and induction processes, the suitable candidates will be identified and the right candidate with the necessary requirements will be appointed. The process of induction can be used to transmit the organisational values and culture to newly appointed employees so that they can familiarise themselves with organisational policies and codes.

However, the success of any diversity management programme, diversity audit, EAPs and written anti-discriminatory statements will depend on the capacity and competence that exist within the HR department and on the commitment of this department to minimise the occurrence of sexual orientation discrimination in the organisation, as this department acts as the coordinator and facilitator of these functions.

2.6   Conclusion

It is a reality that differences do exist among employees within the workplace. The question, however, is how does one manage these differences?

The lack of coherent and long-term programmes is characteristic of the way in which diversity programmes are being approached. This does not add any value to the organisation, as these programmes are not always measured in terms of diversity audits, and therefore the organisation is not always aware of the failure and successes of these programmes.

The HR department plays a vital role in steering this transformational process, as it is the facilitator of the process. The success of any initiative will depend on the capacity, competence and commitment that exist within this department.

The following chapter will focus on the legal and policy framework regarding sexual orientation discrimination. This chapter will entail reviewing the relevant pieces of legislation that have an impact on sexual orientation discrimination.

CHAPTER 3.
STATUTORY AND POLICY FRAMEWORK REGARDING SEXUAL ORIENTATION DISCRIMINATION IN THE SOUTH AFRICAN CONTEXT

3.1 Introduction

Employment discrimination is one of the primary concerns in the work environment and since 1994 reforms have been put into place to ensure that every South African has an equal opportunity regarding employment (Ingkapattanakul & Kleiner, 2001:12; Grobler et al., 2006:83). However, although the RSA have legislation that, at least in theory, protects employees from discrimination, it still occurs (Dawson, 2005:46).

South Africa became the first Country to enshrine lesbian and gay rights in its Constitution of 1996 (Act 108 of 1996), hereafter referred to as the Constitution). It states that "The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds", including:

- race
- gender
- sex
- pregnancy
- marital status
- ethnic or social origin
- sexual orientation
- age
- disability
- religion
- conscience
- belief
- culture
- language
- birth (Republic of South Africa, 1996)

These developments led the Government to develop policies that were set to protect the rights of minorities and LGB people. The Bill of Rights is regarded as the cornerstone of democracy, and sets aside the rights of people and affirms the democratic values of human dignity, equality and freedom (Gonin, 2000:1).

In ensuring an equitable work environment, HR professionals and managers are the key individuals within the organisation who must develop and enforce policies and procedures that protect members of the diversified workforce against unlawful discrimination (Grobler et al., 2006:83).

The aim of this Chapter is to discuss the legislation that has been adopted by Parliament in order to ensure that unfair discrimination does not occur. These include the following:

1. The Constitution of the Republic of South Africa (Act 108 of 1996)
2. The Labour Relations Act,(No. 66 of 1995)
3. The Employment Equity Act, (No. 55 of 1998)
4. The Promotion of Equality and Prevention of Unfair Discrimination Act, (No. 4 of 2000)
5. The Promotion of Access to Information Act, (No. 2 of 2000)

This chapter will also highlight the importance of the key strategic plan of municipalities, namely the Integrated Development Plan (IDP), as a guiding document (policy) for all planning within municipalities.

3.2   The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)

The Constitution of the Republic of South Africa, (Act 108 of 1996), was promulgated on 4 February 1997. The Constitution is the most important piece of legislation that governs South African labour legislation, as it enshrines the right to fair labour practice (Republic of South Africa, 1996). The most important component of the Constitution is Chapter 2, known as the Bill of Rights, which outlines the fundamental rights afforded to all South Africans (Grobler et al., 2006: 83).

Based on the injustice of the past in the Country, certain sections in the Constitution were amended in order to promote equality. Section 9 (1) states that everyone is equal before the law and has the right to equal protection and benefit of the law. Underlying this sentiment is the ideal of a flourishing society in which the diversity of identity is protected (Republic of South Africa, 1996; Gonin, 2001:1).

Section 9 (2) of the Constitution states the following: "[E]quality includes the full and equal enjoyment of al rights and freedom." (Republic of South Africa, 1996). This section brings across that special measures may be taken to ensure the protection or advancement of people who have been disadvantaged by discrimination in the past (Currie & De Waal, 2005:231).

Section 9 (3) of the Constitution states that the state may not unfairly discriminate directly or indirectly against anyone based on the 16 grounds as listed above. It is clear from this sentiment that the law prohibits discrimination based on sexual orientation. Section 9 (4) also provides that no person may unfairly discriminate directly or indirectly on one or more of the grounds mentioned earlier (Snyman-Van Devender, Du Plessis & De Bruin, 2004:28; Republic of South Africa, 1996). The Constitution furthermore requires the courts to uphold the spirit, purpose and objectives of the Bill of Rights, and therefore labour courts must ensure that equity principles and not just legal considerations regulate the reciprocal relationship between employer and employee (Republic of South Africa, 1996). The Labour Relations Act makes it clear that an employee can only be dismissed on the grounds of fair reasons and in accordance with fair procedure, as this act distinguishes between unfair dismissals and automatically unfair dismissals (Republic of South Africa, 1995).

This legislation shows how serious the Government is about removing the obstacle of discrimination and to ensure an equitable work environment (Grobler et al., 2006:84). This led the government to recognise the fact that the composition of the workforce was changing (Riordian & McFarlane Shore, 1997:342). It is this recognition guides the process on how government and non-government institutions should formalise their policies in terms of diversity management and employment equity as mentioned in the Constitution.

3.3 The Labour Relations Act, 1995 (Act 66 of 1995)

The Labour Relations Act gives effect to Section 27 of the Constitution, with the purpose of promoting economic development, social justice, labour peace and the democratisation of the workplace (Republic of South Africa, 1995). Section 187 (1) (f) of this Act prohibits discriminatory dismissals on the grounds of sexual orientation and other grounds mentioned in the act. Schedule 7, item 2 (1) (a) introduces a new concept of residual unfair labour practice, concerning itself with the conduct of the employer, and specifically unfair discrimination (Gonin, 2001:10–11). In so doing, this Act makes provision for unfair discrimination, which is consistent to the Employment Equity Act and Section 9 of the Constitution (Grobler et al., 2006:83). Therefore, all involved in labour relations should review and adapt their HR management policies to prevent unfair discriminatory labour practices (Grobler et al., 2006:83).

3.4 The Employment Equity Act, 1998 (Act 55 of 1998)

The purpose of this Act is to achieve equity in the workplace through the elimination of unfair discrimination in employment practice. This Act also strives to eradicate the demographic inequalities of the past by promoting equal opportunities for all (Gonin, 2001:11). The chapter

on employment equity in the Constitution states that unfair discrimination is prohibited, and it applies to all employers, whether in the public or private sector. Therefore, equal opportunity in the workplace must be promoted (Republic of South Africa, 1998).

Section 6 of this Act, just like Section 187 (1) (f) of the Labour Relations Act, clearly prohibits unfair discrimination based on sexual orientation. Discrimination based on sexual orientation cannot be viewed in isolation, as sexual harassment also plays a major part as to why people discriminate against their colleagues in the workplace (Republic of South Africa 1998; Snyman-Van Devender et al., 2004:51). This legislation recognises that sexual orientation discrimination can occur directly or indirectly, and it provides for appropriate procedures to deal with sexual harassment and prevent its recurrence.

The Employment Equity Act also encourages and promotes the development and implementation of policies and procedures that will lead to the creation of a workplace free of sexual harassment. Section 6 and 7, respectively, emphasise that both employer and employee must respect one another's integrity and dignity, as well as their privacy and right to equality in the workplace (Republic of South Africa, 1998). Gonin (2001:12) also states that the Employment Equity Act can hold employers liable, under certain circumstances, for acts of unfair discrimination by any of their employees while at work. This is contained in Section 60 of the Act.

The Act further dictates the implementation of affirmative action measures in order to redress the disadvantages in employment experienced by designated groups (Grobler et al., 2006: 85). The Act furthermore provides institutions with methods for resolving disputes arising from unfair discrimination, by which employers are required to formulate employment equity plans and report on the implementation of such plans (Republic of Souh Africa, 1998).

3.5   The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000)

According to Currie and De Waal (2005:267), Section 9 (4) of the Constitution emphasise the enactment of national legislation to prevent unfair discrimination practiced by individuals or institutions other than the state. Therefore, this Act must give effect to Section 9 (4) of the Constitution in order to prohibit unfair discrimination as reflected in the Constitution, and to promote equality. The elimination of discrimination will depend on the implementation of the various sections in practice (Republic of South Africa, 2000b).

The main purpose of this act is to provide for the prevention, prohibition and elimination of unfair discrimination, hate speech and harassment (Republic of South Africa, 2000b).

According to Grobler et al. (2006:88), the Act provides two routes for handling disputes in the organisation based on unfair discrimination. The first route relates to disputes outside the workplace, where people can turn to the equality courts, while issues arising within the workplace will be referred to the Labour Court.

Currie and De Waal (2005:267) emphasise the fact that this piece of legislation is ambitious, and aims at nothing less than to eradicate the social and economic inequalities that were generated by colonialism, apartheid and patriarchy. However, this Act does not apply to workplace discrimination to the same extent as the Employment Equity Act 55 of 1998 (Currie & De Waal, 2005:268).

3.6   The Promotion of Access to Information Act, 2000 (Act 2 of 2000)

This Act gives effect to the constitutional right of access to any information held by the state and any information that is held by another person required for the exercise or protection of any rights (Republic of South Africa, 2000a). This Act also makes it possible for persons not to disclose information that will infringe upon their human right and dignity. Therefore, no one can force another person to disclose his/her sexual orientation in the workplace without that person's consent.

This act defines the nature and limits of the right of access to information and sets out procedures for its enforcement. This then gives effect to the constitutional right of limiting the interests of privacy, commercial confidentiality and effective, efficient and good governance in order to protect other rights (Currie & De Waal, 2005:691).

3.7   The Integrated Development Plan

The South African Constitution compels local government to take on a developmental role. This is visible in the developmental duties that have been assigned to municipalities by Article 153 (a) (b), which states that municipalities must

- structure and manage its administration, budgeting and planning process to promote social and economic development; and
- participate in national and provincial development (Davids, Theron, & Maphunye, 2005:59).

Integrated development planning can be described as processes through which municipalities prepare a strategic plan for development and growth, aligned to resources and in accordance with priorities (Erasmus & Van Dyk, 2000:9). This process is a legal requirement which is a

binding strategic instrument (John, 1997:10–15). The lifespan of the IDP is five years, and it must be reviewed annually and amended if necessary (John, 1997:10–15).

The Municipal Systems Act (2000) states that each municipality should adopt such a plan, as the IDP are considered as one of the core functions of the municipality. According to John (1997:10–15), this plan should link, integrate and coordinate plans (objectives). It should take into account proposals for development within the municipality, which should align the municipality's resources and capacity with the implementation of the plan and the formal policy framework on which budgets must be based. The IDP can also be seen as a municipality's organisational strategy, as this document guides all projects and plans (Davids et al., 2005:59).

According to Davids et al. (2005:60), the Municipal Systems Act uses the IDP as a point of departure for managing and evaluating performance, allocating resources and for organisational change. This document also sets out the vision, needs, priorities, goals and strategies of a municipality as part of a long-term vision and plan for development (Davids et al., 2005:61).

The IDP as a grassroots' tool is the best mechanism to communicate to the employees of the municipality and community the organisational plan of action to combat sexual orientation discrimination as the IDP brings local government closer to the people. The IDP can be seen as a tool to guide employees and making them aware of the necessary provisions (by highlighting the necessary programmes) as it is contained and budgeted by the organisation.

The IDP can be seen as an organisational strategy; therefore departmental strategies cannot be separated from this plan. It serves as a platform for top management to reaffirm their commitment to combating sexual orientation discrimination. The IDP is an important way in which municipalities can start to develop a strategic policy capacity to mobilise resources and to set action plans in motion.

3.8   Conclusion

The Constitution of the Republic of South Africa lists 16 grounds on which citizens may not discriminate against one another. This led the government to develop legislation such as the Labour Relations Act, the Employment Equity Act, the Promotion of Equality and Prevention of Unfair Discrimination Act and the Promotion of Access to Information Act.

Although this legislative framework is in place, it is not prescriptive on how organisations should deal with sexual orientation, even though it emphasises that it is prohibited. This form of discrimination can occur in the following forms:

- Denying people raises, benefits, promotions or performance evaluations based on their sexual orientation.
- Preventing people from using services because of their sexual orientation.
- Denying people access to any programme based on their sexual orientation.
- Harassing employees for filing a complaint of discrimination based on sexual orientation.
- Engaging in discriminatory conduct creating a hostile environment for employees.

(Chung, 2001; Correia-Hirata & Kleiner, 2001; Deitch et al., 2004; Ragins & Wiethoff, 2005)

Although the above-mentioned practices are illegal and unconstitutional in South Africa, they still occur. Discrimination based on sexual orientation is the least documented of all forms of discrimination (Dipboye & Colella, 2005:429). As a result, legislation that solely focuses on banning discrimination will not be effective, as many LGBs still face discrimination, regardless of the Constitution, in organisations that are not clearly guided by appropriate policies (Gonin, 2001:3).

Although the Government and organisations have legislations and policies in place, intolerance of LGBs still exist in the RSA, and this intolerance is being carried over into the workplace. This can be ascribed to different cultural values and norms, and the fact that LGB workers are still being treated as different people, irrespective of the Constitution (Gonin, 2001:3).

Substantial inequalities exist, even though the legal environment provides that all people should have an equal chance (Dipboye & Colella, 2005:2–3). Yet, legislation is essential, as without this legal protection, LGB employees are vulnerable. If not clearly guided by policies and guidelines, LGB employees will remain the targets of derogatory anti-gay jokes and other forms of discriminatory behaviour. Therefore, the IDP plays a vital role in establishing sustainable projects that will add value not only to the organisation but also to its employees.

This places great emphasis on the IDP and other policies to reflect the organisation's commitment to combating discriminatory behaviour. The next chapter will focus on Stellenbosch Municipality as a case study to identify problems based on the theory that has been dealt with in previous chapters.

CHAPTER 4.
COMBATING SEXUAL ORIENTATION DISCRIMINATION WITHIN LOCAL GOVERNMENT: THE CASE OF STELLENBOSCH MUNICIPALITY

4.1   Introduction

In Chapter 2 the importance and necessity of the management of diversity in the organisation was discussed as a basic platform to highlight sexual orientation discrimination. Chapter 3 dealt with the statutory and policy framework regarding sexual orientation, and focused on the ways in which discrimination based on sexual orientation may manifest in the organisation by emphasising that legislation focusing only on banning sexual orientation discrimination will not be effective, as there are various factors that contribute to this phenomenon. In Chapter 4 Stellenbosch Municipality is used as a case study by examining the status of

- Diversity programmes
- Organisational culture
- Employee assistance programmes
- HR practices

These four interventions have been discussed in Chapter 2 as vital elements in minimising and combating sexual orientation discrimination. Firstly, some background information about Stellenbosch Municipality will be provided, whereafter the Municipality's progress in terms of these interventions will be discussed. The information was obtained by means of semi-structured interviews based on the literature review and the following documents:

- The IDP of Stellenbosch Municipality
- The Employment Equity Plan of Stellenbosch Municipality
- The diversity programme schedule for 2006/2007
- Diversity managements reports of Stellenbosch Municipality

The following officials have been interviewed:

- Sabelo Hlanganisa (Head: Recruitment and Selection)
- Ulrich Cupido (Head: Skills Development)
- Melloney Zimri (Head: Labour Relations)
- Jenè Bergstedt (Recruitment and Selection Officer)

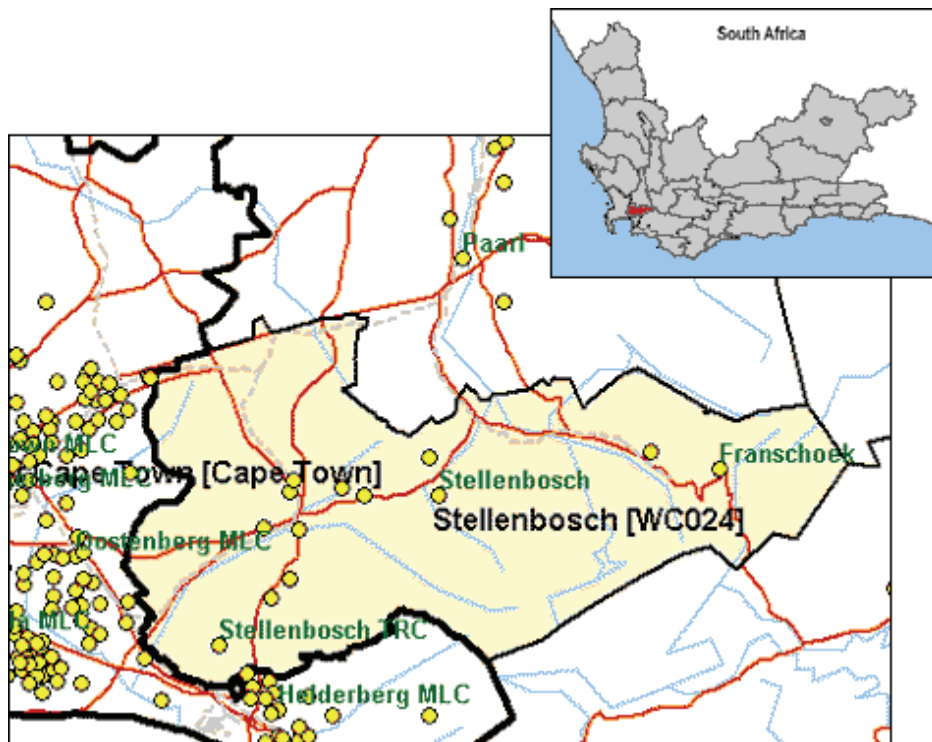## 4.2   Background to Stellenbosch Municipality

Figure 4.1: Map of Stellenbosch Municipality
(Source: Western Cape Provincial Government, 2007)

Stellenbosch Municipality is a type B municipality with a total of 1 290 employees (Cupido, 2008). This municipality forms part of the Cape Winelands District municipality and approximately 135 000 people live within its jurisdiction, across 19 wards. The population has grown in the period of 1970 to 2006, with the largest growth in the African population with 9.3% (Zietsman, 2007:9–10). This places significant pressure on current municipal policies to adjust to the changing needs of the community (Stellenbosch Municipality, 2007).

Based on the unique characteristics of this institution it has been chosen as a case study to review sexual orientation discrimination in the workplace, to establish a premise to assess, whether a policy framework exists within the Stellenbosch Municipality.

Stellenbosch Municipality, as all other municipalities, is obliged by law to have an IDP as a means of adhering to its developmental role, as discussed in Chapter 3. IDP projects are driven by the following guiding principles and core values:

- Sustainable development
- Agenda 21

- Smart Growth
- Batho Pele principles
- General principles for land development as stipulated in the Development Facilitation Act (No. 67 of 1995), (Section 3).

The abovementioned guiding principles steer all plans, projects and development initiatives, but are preceded by values that direct the Municipality on how to conduct its business. These values include the following:

- Respect for human dignity and human life
- Integrity/honesty
- Quality of service
- Accountability and responsibility
- Team work
- Excellence/professionalism
- Effectiveness and efficiency
- Transparency
- Equality

4.3   Diversity programmes

Diversity has become a buzz word that is now used synonymously with the word 'race' (Grobler et al., 2006:75). Stellenbosch Municipality does not have a rigid diversity programme in place, and diversity management is viewed as a part of the organisation's Employment Equity Plan (Hlanganisa, 2007). Diversity workshops were offered in 2006, which took the form of one-day sessions from 09:00 to 16:30. Consultants were hired to facilitate this process. These workshops were divided into two sections (Stellenbosch Municipality, 2007), namely:

- A focus on the management of cultural diversity.
- A focus on understanding employment equity.

The objectives of these workshops were the following:

Diversity

- Understanding and describing the challenges of managing diversity in the workplace.
- Recognising the benefits of diversity.
- Understanding what it takes to retain, motivate and promote culturally and socially diverse employees.

- Identifying and working through participant's own stereotypes as well as reclaiming pride in their own ethnic and cultural backgrounds.
- Applying interpersonal skills to accommodate the needs of others who are culturally different.
- Capitalising on people's differing talents.

Employment equity

- Developing an understanding of the philosophy and policy issues underlying the Employment Equity Act.
- Informing participants about the history and background to the process of drafting the Act
- Clarifying the concepts of equality, employment equity, affirmative action and diversity.
- Providing participants with information regarding the workplace analysis and profile, the formulation and content of employment equity and the consultation requirements of the act.

The following challenges were experienced during these workshops (Stellenbosch Municipality, 2007):

- The exercises seemed to have been too difficult for some participants to complete.
- Language barriers.
- Levels of illiteracy.
- Innumeracy.

Since 2007 until now, July 2008 no diversity management workshops have been held (Bergstedt, 2008), due to political changes, financial constraints and operational adjustments.

The organisation's vision and mission, as depicted in its IDP, makes no provision for sexual orientation discrimination, but rather refers to "[a] dynamic, efficient, accountable and caring frontline organisation dedicated to professionalism, excellence, good governance and the pursuit of sustainability in delivering on our Constitutional mandate by fostering social development ..." (Stellenbosch Municipality, 2007). Sexual orientation discrimination in the organisation is viewed as part of the broader detail of discrimination (Hlanganisa, 2007). Therefore, sexual orientation discrimination has never received any special treatment. The organisation has initiated workshops focused on broader diversity issues, but not necessarily on sexual orientation.

Quantitative assessment is conducted annually by the organisation, and the organisation reports to the Department of Labour on its diversity management and employment equity progress (Cupido, 2007 & Hlanganisa, 2007). This annual report highlights certain gaps that exist between what is being done and what the organisation can do in terms of diversity (Hlanganisa, 2007). Currently there is no evaluation mechanism in place that allows the organisation to do proper follow-up after workshops, as employees only complete the usual (traditional) evaluation forms.

If one considers the requirements for diversity programmes as discussed in Chapter 2, Stellenbosch Municipality falls short of what is expected and needed within an organisation.

4.4   Organisational culture

Stellenbosch Municipality consists of nine directorates, which can be divided into 23 divisions (Cupido, 2008). These divisions are scattered across town and, as a result, these departments developed subcultures. The interaction between members of these departments are different than those from other departments. Employees' acceptance of gay employees therefore depends on the relationship that exists within each department between employees.

Only 11 staff members are employed in the HR department, compared to the significant amount of people deployed in other departments. This type of ratio has an impact on the relationship that might exist. After engaging in discussions with senior officials at the Municipality, it became apparent that most of them are not aware of homosexual employees within the organisation and, in addition, they do not see it as a serious issue as these people are not being discriminated against (Hlanganisa, 2007; Cupido, 2007 & Zimri, 2007).

Currently, there are no support systems within the Municipality that can assist employees with disclosing their sexual orientation at work. Currently one qualified social worker is employed in the organisation, but this does not fall within her job description (Zimri, 2007). No labour relation complaint of being discriminated against based on sexual orientation has been laid at Stellenbosch Municipality. Moreover, individuals are appointed based on their skills and not sexuality. Therefore, if employees feel comfortable in disclosing their sexual orientation they can do so freely.

4.5   Employee assistance programmes

With a workforce of 1 290, it is important that Stellenbosch Municipality should have such a programme in place, however no such programmes exist, but according to Zimri (2007) the organisation is in a process of reviewing a proposal for the implementation of such a programme. The shift in political power in April 2008 at this Municipality, caused by a by-election and the appointment of new senior management, this process will be prolonged. Pending on the outcome of the decision that still needs to be taken by senior management, these programmes still have a long way to go in South Africa (Grobler et al., 2006: 398). In recognition of the changes taking place at the Municipality and its emerging needs, it should be remembered that EAPs are increasingly moving towards a comprehensive service design model that addresses a broad range of issues facing the organisation.

The fact that there is only one qualified social worker employed within the Municipality raises serious questions about the quality of support staff receive during periods of intensive change, counselling to address the problem of stress that employees receive within the institution.

4.6   Human resource practices

In Chapter 2, the importance of the HR practice was highlighted. This section focuses on the role and functions of the HR department in Stellenbosch Municipality. The HR department consists of 11 employees, who include a Senior Human Resource Manager, the heads of Recruitment and Selection, Skills Development, Administration, and Labour Relations. For the purpose of this study, only the relevant employees' functions and roles are summarised below:

Table 4.1: Key performance areas of HR within Stellenbosch Municipality

Job title	Function/Role	Key Performance Areas (KPAs)	Skills/Legal requirements
Head: Recruitment and Selection	• Maintenance of organograms • Recruitment and selection • Induction • Employment equity • Personnel management • Budgetary management of section	• Operational management of recruitment and selection process • Alignment of recruitment and selection with the Municipality's HR needs and objectives • Verification of qualifications of candidates • Appointment of successful candidates • Liaison with unions in recruitment and selection process • Employment equity plan • Diversity management	• The managerial dimensions associated with this post necessitate understanding, interpretation and application of relevant legislation, procedure and rules **Minimum qualifications and requirements** • Relevant B degree or diploma (HR) • Four years' relevant experience
Head: Skills Development	• Alignment and implementation of skills development strategy through consultation and participation • Analysis and consolidation of the Municipality's skills plan and key deliverables • Presentation of programmes • Evaluation of the quality and adequacy of internal and external interventions with respect to developing the capacity and capability of personnel	• Facilitation of a holistic capacity-building strategy to empower employees to fulfil their roles and responsibilities • Facilitation of the compilation of the Work Place Skills Plan and quarterly reports to be submitted to the LGSETA • Facilitation of development and maintenance of employees skills development, trainee and mentor databases as a means of capturing the skills base within the Municipality • Facilitation of implementation of skills plan to ensure the most effective utilisation of human resources to support the IDP of the Municipality • Development of effective mechanisms for monitoring the outcomes and impact of capacity-building programmes • Operational management of skills development of HR element of Municipality • Liaison with directorates and service providers to facilitate the capacitating of HR resources through career-development training • Compilation of workplace skills plan • Wellness/EAP	• Transformational and change management • In-depth knowledge and understanding of HR development • Understanding of applicable legislative framework • Computer literacy **Minimum qualifications and requirements** • Appropriate HR development degree/diploma or equivalent qualification • 3–5 years' experience in HR development and skills development

Head: Labour Relations	• Responsibility for the overall development and efficient management, coordination and administration of the labour relations section • Functional services pertaining to: - Legal advice regarding labour relations issues - Disciplinary investigational hearings - Ill health/poor performance investigations • Assistance regarding strike management	• Disciplinary actions and investigations • Coordination of LLF/union activities • Activities regarding skill management	• The managerial dimensions associated with this post necessitate understanding, interpretation and application of relevant legislation, procedures, rules and contractual agreements • Computer literacy **Minimum qualifications and requirements** • Four years' relevant labour law experience

Table 4.1 highlights the roles and functions of the key individuals in the HR department. As is evident in the **Table**, EAPs do not feature prominently.

4.6.1   The Human Resource strategy for Stellenbosch Municipality

Stellenbosch Municipality's HR department is currently developing an HR strategy. This strategy should be dedicated to serve and support the organisation in achieving its strategic objectives as delineated in its IDP.

In the past, the development of an HR strategy was not a priority, as HR staff members only focused on their daily administrative responsibilities (Cupido, 2007). When Stellenbosch Municipality shifted power, it became clear that there is an emerging need for an HR strategy. The purpose of this strategy is on making the organisation effective and efficient in terms of service delivery and creating a workforce that is highly motivated.

4.7   Conclusion

This Chapter examined Stellenbosch Municipality as a case study. Based on the significant amount of people living in the jurisdiction, more emphasis on the part of the Municipality should be placed on diversity management.

The central arguments of this Chapter were:

• There has been no diversity workshops since 2006, and previous workshops only focused on cultural diversity and employment equity.

• No support system exists within the Municipality, should an employee decide to disclose his/her sexual orientation at work, to make that transition easier.

- Stellenbosch Municipality is considering implementing an EAP, but the HR department is understaffed, placing pressure on its day-to-day activities.

The following chapter will provide more insight into Stellenbosch Municipality based on an analysis of the data that was gathered during the interviews.

CHAPTER 5.
SEXUAL ORIENTATION DISCRIMINATION WITHIN STELLENBOSCH MUNICIPALITY: AN ANALYSIS

5.1   Introduction

After completing the literature review in Chapter 2 and reviewing the necessary legislative requirements in Chapter 3, it is incumbent upon the researcher to establish whether the diversity programmes, organisational culture and HR practice promote a safe and secure environment for LGB employees, and whether an EAP will contribute to making this transition easier.

5.2   Gathering of data

To complement the literature review and to make this study more reliable, four personal interviews were conducted. These interviews were characterised by semi-structured questions to allow flexibility. The purpose of these interviews was to supplement the literature review and consequently make the research more reliable.

The researcher found e-mail to be more effective and efficient in eliciting responses from other members of the Human Resource department in order to substantiate and validate the information from the interviews that had been conducted.

The aim of the analysis is to determine any patterns or trends based on the interview subjects responses to a series of questions centred around four key areas of human resource management in the organisation, namely diversity management, organisational culture, employee assistance programmes, and human resources practices. Based on these questions the researcher could assess the officials awareness and understanding regarding the phenomenon of sexual orientation discrimination in the organisation.

  The information that has been gathered will be presented by themes as discussed in the previous chapter.

5.2.1   Diversity programmes

After evaluating the relevant data, it is evident that little effort is made to create a safe and welcoming environment for LGB employees at Stellenbosch Municipality, even though it complies with the legal requirements, as dealt with in Chapter 3. The current programmes available are not sufficient in addressing sexual orientation discrimination and they lack coherency.

As mentioned in the preceding chapters, diversity concerns the differences that exist among people (Harvey, 2005b:3–4). The behaviour of the officials interviewed raises concern, as they were reluctant to respond to key questions. These officials were not aware of any LGB employees in the organisation or of statistics pertaining to this designated group. This raises the question of how serious they are in preventing, prohibiting and eliminating sexual orientation discrimination as required by legislation.

This lack of interest of the officials in matters pertaining to LGB employees can be linked to the fact that no diversity programmes were offered since 2006. These workshops could have been used as a mechanism to inform the organisation about the existence of these employees within the organisation, and to help relieve the stress and the anxiety that employees facing sexual orientation discrimination might experience.

Even though these diversity workshops were presented in 2006, no diversity audits took place. An annual report is submitted to the Department of Labour on the organisation's performance in terms of employment equity. This report gives no clear indication of issues LGB employees are faced with or of the current gaps that exist pertaining to diversity management in the organisation.

Based on the interviews and documents received, it also became apparent that there is a need for a diversity management programme that is coherent and not short-term based. No special emphasis was placed on sexual orientation discrimination as these diversity workshops are only structured around cultural diversity and employment equity. The time span of these workshops was also not sufficient, as there was not enough time to discuss the topics in depth.

From the feedback obtained and discussed in Chapter 4 and the impact on the organisation it is clear that these diversity workshops do not add any value to the organisation, as the education and training acquired during these workshops are not sensitive to the needs of either heterosexual or LGB employees.

Theoretically, the issue of sexual orientation should not be viewed as inferior. However, in the South African context (organisational) culture, religion and myths play an important role in how LGB employees are being perceived, and therefore sexual orientation should be emphasised more clearly in diversity programmes as this is not addressed sufficiently in legislation.

As stated in Chapter 2, the management of diversity is a long-term process and not a short-term solution to current problems. It will not be fixed with one-off workshops, and demands management's commitment to set in motion mechanisms to access the potential of all employees (Grobler et al., 2006:75). However, diversity cannot be seen as separate from

employment equity or affirmative action, yet Stellenbosch Municipality is currently placing more emphasis on employment equity as the legal approach to workplace discrimination (Grobler et al., 2006:78). This clearly indicates that Stellenbosch Municipality should develop a strategy that is inclusive of all aspects dealing with diversity management and that distinction must be made between diversity management and employment equity.

5.2.2 Organisational culture

The data gathered from the interviews and documents revealed that the number of employees employed at a department will influence the social interaction among these employees and it will have an impact on how gay employees are being perceived at that department. The location of the departments has an impact on diversity management issues, as departments have different needs and problems. Currently no mechanism is in place within the organisation to indicate how to handle sexual orientation discrimination. This follows the same labour relation route as all other discriminatory cases and no guidelines or framework exists on how employees should go about reporting sexual orientation discrimination.

In Chapter 2 it was indicated that when an organisation's culture is positive it will help motivate employees. However, if the environment within the organisation is such that it does not satisfy the needs of employees, employees will be less inclined to work towards the organisational goals.

No cases regarding sexual orientation discrimination have been reported at Stellenbosch Municipality; hence HR personnel are not aware of any gay employees at the organisation. They do not see sexual orientation discrimination as a big threat and employees might ask to what degree Stellenbosch Municipality can be regarded a homosexual-friendly place. Based on the abovementioned sections, it is debateable whether or not Stellenbosch Municipality is trying to create a safe environment for LGB employees to disclose their sexual orientation, as current programmes are insufficient to address the problem, along with the fact that the homosexual segment of the workforce is not explicitly addressed in policies or strategies.

The type of culture that is present in the organisation will play a role in combating the current situation. Once there is a clear indication of the kind of culture that is present in the organisation, a diversity programme can be drawn up accordingly, as this will indicate how other employees perceive LGB employees in the organisation. However, based on the location of these departments, it should be remembered that society's values do have an impact on the values of the organisation, because of the interactive nature of work that the municipality renders.

5.2.3 Employee assistance programmes

Based on the interviews conducted it became apparent that a decision still needs to be made on whether such a programme will be introduced. Senior management must remember that EAPs are there to overcome personal crises and tend to be valuable to employees seeking help (Grobler et al., 2006:396).

The data also revealed that it is imperative that Stellenbosch Municipality develop such a programme. Currently, the HR department is understaffed, with a ratio of 100 employees for every HR staff member. The HR department therefore does not have the capacity to run such a programme.

If it is decided to present such a programme, the long-term viability and adaptability of this programme will depend on a strong management and administrative system that is able to monitor the changing needs and goals of the employees and the organisation in order to respond to them (Harper, 1999:4).

5.2.4 Human resource practice

The literature emphasise that an organisation's HR management strategy cannot be separated from its organisational strategy. This strategy should therefore be flexible in order to accommodate the constant fluctuations and changes that are characteristic of local governments. This is also the case at Stellenbosch Municipality (Stellenbosch Municiplaity, 2007).

Although no current policy exists on human resources, an audit of the policies and procedures can be done at the Municipality. A clear indication can be reached of whether organisational policies have been attained. The primary function of any local government institution is to focus on service delivery and the development of communities, while the HR department focuses on the development of the staff (Cupido, 2008).

In order to achieve this function, the report at Stellenbosch Municipality states the following as HR strategies (Stellenbosch Municipality, 2004:22):

- Create a skilled workforce through effective training and selection.
- Create an informed workforce through sound labour relation practices.
- Attain sound HR administration through a no-tolerance policy towards incorrect calculations in terms of all salary administration matters.
- Ensure sound organisational structure through a well balanced and administrative process of job description and evaluation.

To realise the above mentioned strategies Stellenbosch Municipality's uses the IDP as an organisational strategy, as mentioned. The HR strategy cannot be separated from this organisational strategy, as this IDP is an important way in which municipalities can start to develop a strategic policy capacity, to mobilise resources and to target their own activities, as mentioned in Chapter 3

Therefore, to ensure that it delivers the best services to its community, Stellenbosch Municipality needs to empower its employees by addressing the following HR constraints (Cupido, 2008; Stellenbosch Municipality, 2004:22):

- Shortage of staff – administrative and skilled support is needed in order to capacitate the department to drive projects so that issues such as sexual orientation discrimination can be addressed.
- Training facilities and equipment are expensive, which makes it difficult to present workshops on diversity management issues.
- Funding (budget constraints) or educational purposes and awareness training.

The HR department must address the above constraints if it is to successfully minimise sexual orientation discrimination. These three constraints have a direct impact on the capacity within the department. Due to the lack of diversity workshops, the different subcultures that exist in the Municipality, and the abovementioned constraints, the establishment of an EAP is a necessary mechanism to bridge the gap between a troubled employee (whether it is sexuality-based or other psychological or physical reasons) and the organisation.

However, the IDP is an important instrument in driving projects, and can be used to manage and evaluate projects as well as performance. It can also help the organisation in identifying certain gaps that exist within the Municipality. Stellenbosch Municipality identified that the nature of the past discriminatory policies which resulted in the marginalisation of certain groups of people are such that the natural forces of social development will not easily resolve them.

5.3   Conclusion

This chapter analysed Stellenbosch Municipality as a case study. It is clear that this municipality falls short of what is expected and needed within an organisation to adequately address sexual orientation discrimination, mainly because -

- little effort on behalf of the organisation is being made to create a safe and welcoming environment for LGB employees;

- current diversity programmes are non-coherent, short term and insufficient in addressing this issue;

- there is apathy on behalf of the HR staff in acknowledging LGB employees;

- the quality of support that LGB employees receive is poor, as there are only one qualified social worker employed; and

- the HR department does not have the capacity to run an EAP, as it is understaffed.

The above factors should be addressed, and the aim of the concluding chapter is to provide recommendations in order to do this, so that an inclusive, safe and secure working environment can be created for LGB employees.

CHAPTER 6.
RECOMMENDATIONS AND CONCLUSIONS

6.1   Introduction

Since South Africa's democratisation in 1994, many acts and policies have been passed in Parliament that has far-reaching implications for how LGB employees are perceived in the workplace. These acts and policies have a direct impact on the management style and strategic planning of organisations such as Stellenbosch Municipality.

The core function of HR management is people-oriented policies and programmes whereby staff members can be developed. This department is the heart and soul of any organisation, as it should coordinate and facilitate sexual orientation discrimination training, EAPs and diversity programmes within the organisation.

Through the research process the following points have been highlighted as the central arguments of this study:

- Diversity management programmes must be strengthened, as this is an important mechanism to educate and train employees regarding sexual orientation. However, many organisations do not include sexual orientation discrimination in these programmes, as the programmes are short-term rather than longer-term oriented.
- Sexual orientation discrimination tends to occur more indirectly in the workplace, and can be ascribed to ignorance and prejudice, heterosexism/homophobia, religious and moral beliefs, stigmatisation and so forth.
- The minimisation of the risk of sexual orientation discrimination in the organisation will depend on the organisation's written anti-discriminatory statements, the type of organisational culture and support structure available, the existence of EAPs and the capacity of the HR department to initiate and sustain these programmes.
- The HR strategy cannot be separated from the organisational strategy, which is the IDP, as it is a strategic instrument that influences all planning, budgeting and projects, allocates resources and manages organisational change.
- Policies directed solely at banning discrimination will not be effective. A holistic process that is inclusive should rather be followed, and language sensitivity should be of the utmost importance.

The objective of this last Chapter is to provide recommendations on how Stellenbosch Municipality can become more inclusive for LGB employees.

6.2 Recommendations

In Chapter 4 it was stated that the Municipality's role is to focus on service delivery and the development of its community. The attainment of its operational and developmental goals, as set out in its IDP, will largely depend on the efficiency and effectiveness of the employees. This cannot materialise if a fraction of employees face constant discrimination or if the work environment is of such a nature that these employees cannot disclose their orientation because of ostracism. As no formal framework exists on how to handle sexual orientation discrimination within the Municipality, the organisation can strive to make it more inclusive by adhering to the following recommendations:

1. A sexual orientation discrimination policy should be formulated. Although the Municipality has a diversity management policy in place, it does not give the necessary assurance that the organisation is committed to fighting this form of discrimination. The current policy should be revised in order to make it more inclusive, and it should be sensitive not only to LGB employees but also to heterosexual employees.

This policy must clearly state the view of the organisation on the matter of sexual orientation discrimination, and it should bear the signature of top management. This will show the rest of the organisation how committed top management is to this policy. The policy must be communicated through to the various departments in order to acquaint the rest of the organisation with it.

This kind of support will not only send a clear message to the organisation that it fosters diversity, but it will also reduce resistance in the organisation (Trau & Härtel, 2002:13).

2. An EAP should be established. Chapters 2 and 4 emphasised the importance of such a programme within an organisation. Although this programme tends to be expensive, the Municipality can continue working on the assessment and referral model, as this model has gained popularity over the years in South Africa mainly because its implementation is inexpensive (Harper, 1999:15).

This programme does not necessarily have to be located within the HR department, but rather in a department that has the capacity to handle the programme. The success of this programme will depend on the quality of resources available to the department handling the programme and the organisation, as well the people managing the process. The capacity within the chosen department needs to be assessed before such a programme can be established. At Stellenbosch Municipality, this programme would be best situated in the Social

and Human Development department, as this department has the necessary networks already established with which it liaises daily.

3. Diversity management workshops should be initiated and evaluated. The current focus of diversity management is not sufficient in the way it are structured. As mentioned in the previous chapter, most of the Municipality's departments are scattered across town, therefore workshops should be based on the different departments' needs, and emphasis should be shifted in the direction of sexual orientation, gender issues and disability, depending on the departmental needs identified. The HR department should also place emphasis on inter-departmental diversity initiatives, where departments address pertinent issues that they see as a threat.

As mentioned in the previous chapter, the current evaluation method used by the organisation should be placed under scrutiny to determine whether it reflects the real impact of the diversity process. This evaluation mechanism should be easy to complete, user friendly and accessible.

4. There should be a focus on the need to appoint change agents within the organisation. The HR department is not always accessible to all employees due to the location of the various departments. Therefore, key individuals can be identified in the different departments that are willing to act as change agents. These people should be sympathetic to relevant issues, especially pertaining to LGBs. The change agents should keep the rest of the department up to date with new developments pertaining to diversity matters. These agents should write ongoing reports on the successes and failures of the organisation's dealing with LGB employees.

5. A fifth recommendation relates to the review of the labour relation process. The collective agreement, with the Unions within Stellenbosch Municipality makes provision for such as verbal, written and final written warnings, and the penalty will depend on the facts of the case. Therefore, any employee that is involved in discriminatory behaviour should be sent for counselling. This should apply to both parties (the discriminator and the victim) as a mechanism to change the behaviour and attitudes towards LGB employees.

This measure will ensure that the root of the problem is diagnosed, as Stellenbosch Municipality is, according to Zimri (2008), committed to promoting teamwork among its employees. However, an employee must be comfortable and secure in his/her job and should feel free to be him-/herself, which is why a support system should be implemented, as noted in recommendation 3 and 4.

6. A diversity management manual should be drawn up. Diversity management workshops are expensive. The HR department must determine what the crucial diversity management issues are with which the organisation is faced. Based on this analysis it can draw up a diversity management manual.

This manual must be user friendly and should also contain the following:

- A simplified definition of the problem.
- The characteristics of such a problem.
- Guidelines from legislation on the problem.
- The details of the official to whom the problem can be reported.
- The applicable labour relation route.

The aim of this manual is to shift diversity management responsibility to the departments to take charge of their own diversity initiatives, by making use of the change agents as mentioned in recommendation 4. However, the HR department must coordinate this process.

7. Continuous training and development should be offered to build a stronger organisational culture. This is based on the assumption that few people tend to recognise LGB employees in the organisation, despite the enactment of legislation. To change this, the organisation must train and educate its employees on this matter. However, with the increase of its population, Stellenbosch Municipality must be aware that society's values will flow over to the organisation because of the interactive nature of work. Training and development should therefore be focused on

- combating ignorance and prejudice within the organisation;
- awareness programmes, which sensitises people to different sexual orientations;
- moral and religious beliefs;
- stigmatisation; and
- organisational features.

As mentioned, not all employed in the organisation are aware of the existence of sexual minorities in the organisation, and as a result they show a lack of acceptance to self-disclosed individuals (Trau & Härtel, 2002:13). Therefore, raising the awareness regarding LGB issues through education and training increases tolerance and reduces discomfort for both heterosexual and homosexual employees. This will create a sense of inclusion within the organisation. However, throughout the process, sensitivity of language must be adhered to, as discussed in Chapter 2.

If one should develop a framework based on these recommendations, the diagram will look as follows:
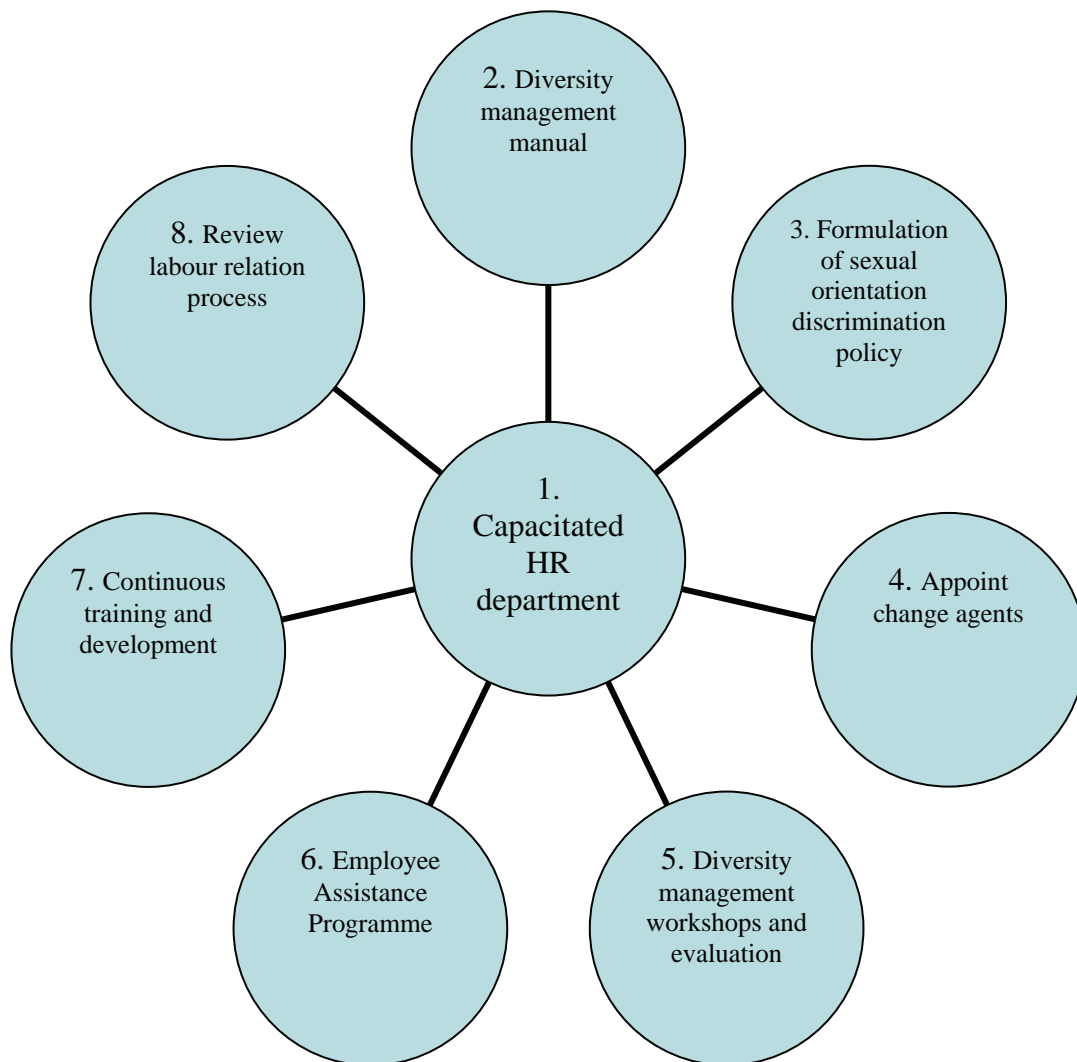

Figure 6.1: Recommendations

At the heart of this framework is a capacitated HR department. Without such a department, the other functions will be useless, as the HR department is the driving force behind these initiatives, as depicted above. Therefore, the success of these recommendations will depend on the training and development programmes offered at Stellenbosch Municipality. The aim of these programmes must be to empower employees, and therefore a qualified and suitable person that has the necessary experience should present them.

6.3   Conclusion

Legislation compels municipalities to take on a developmental role, where the main purpose is to develop communities. Stellenbosch Municipality is no exception; however, to meet this mandate, the Municipality needs employees that are mentally equipped.

Sexual orientation discrimination is a controversial topic that needs to be approached with the necessary sensitivity. The IDP of Stellenbosch Municipality plays a vital role in educating not only its staff members but also the public, as this IDP guides and informs all planning, budgeting, management and operational decisions within the Municipality. Therefore, the HR management's role in relation to the IDP is to educate, train and empower its employees regarding the pertinent issues of diversity, especially sexual orientation discrimination. Training and development is one mechanism that can be utilised in making the organisation more inclusive, which would contribute to transforming the perception that heterosexual employees have about gay employees.

The success of these programmes will depend on the capacity and quality of support within the institution available to homosexual employees. However, the HR department is confronted with certain constraints that need to be addressed in order to transform the current state of the organisation. This will depend on senior managers' commitment to achieving an all-inclusive work environment where everyone can be who they are, without the fear of being ostracised or discriminated against based on sexual orientation. This can be achieved once a framework is put in place on how to handle sexual orientation discrimination and how to address the underlying factors that lead to the discriminatory behaviour.

Therefore, the following recommendations can be implemented to make this transition easier:

- Formulation of a sexual orientation discrimination policy.
- Establishment of an EAP system.
- Initiating of diversity management workshops and evaluation of these workshops.
- Appointment of change agents within the organisation.
- Review of the labour relation process.
- Production of a diversity management manual.
- Continuous training and development to build a stronger organisational culture.

Chapter 2 highlighted the importance of the management of diversity as a means of understanding sexual orientation discrimination, and special emphasis was placed on factors that can be used to minimise its occurrence. However, the significant impact of programmes on the behaviour of employees will depend on the sensitivity of the language and communication mechanisms used during the training procedures.

The legal environment pertaining to public sector institutions compels local government to have certain programmes in place, as discussed in Chapter 3. The IDP as a strategic document will be the main driving force for promoting organisational culture among its

members, as the organisational strategy (IDP) cannot be separated from the different departmental strategies.

Chapter 4 focused on Stellenbosch Municipality, and emphasis was placed on the functions of the HR department. The various functions and roles of the relevant employees were mentioned to highlight their importance as agents in establishing mechanisms to combat sexual orientation discrimination in the organisation. However, this department is faced with constraints that can impede its ability to deliver an effective and efficient service to the staff, as its main purpose in the organisation is to develop staff.

Chapter 5 dealt with the analysis of Stellenbosch Municipality, and it was emphasised that no clear framework exists within Stellenbosch Municipality on how to handle sexual orientation discrimination. It also became apparent that this organisation falls short of what is expected in terms of theory to make the organisation more inclusive regarding sexual orientation discrimination.

The last chapter provided recommendations on how to make the organisation more inclusive. However, this can only be successful if the HR department has the necessary capacity and staff to implement these recommendations.

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Zimri, M.2008. Personal interview, Stellenbosch

ANNEXURE 1

Interviews:

Mr U. Cupido, Head: Skills Development, provided the following documentation

Stellenbosch Municipality Integrated Development Plan 2007
Stellenbosch Municipality Integrated Development Plan 2004

He also arranged appointments with the other personnel members that I have interviewed.

Questions asked during the interview with **S. Hlanganisa, 2008,** Head: Recruitment and Selection:

- Is there a diversity policy in place at Stellenbosch Municipality?

- By not having a diversity policy, how do you measure the diversity progress made by the organisation, as the organisation does not conduct diversity audits?

- In your opinion, don't you think that such a policy would create a safe working environment for employees to disclose their sexual orientation, by reassuring them that the Municipality is an all-inclusive work environment?

- What are the procedures for reporting homophobia in your organisation?

- What are your organisation's guidelines on confidentiality about gay and lesbian people?

- Does your organisation have a code of conduct/ethics that it has committed itself to? What does it say about the organisation's relationship to gay and lesbian people?

- What interventions on the part of the Municipality exist to combat sexual orientation discrimination?

Questions asked during interview with M. Zimri, Head: Labour Relations, 2007:

- What mechanism is in place at the Municipality to assist gay employees' "coming out" at work?

- Is there any support system at the Municipality that makes the transition for a "closeted" employee more favourable?

- What support system is the Municipality offering to employees that are being discriminated against based on their sexual orientation?

- What happens to an employee that discriminates against a fellow employee based on his/her sexual orientation?

- What procedure does the Municipality follow in such a case?

- What type of punishment can the discriminator expect to receive?

- How inclusive is the organisation's diversity management policy regarding sexual orientation?

- Does the current policy create a safe working environment for LGB employees to disclose their sexual orientation?

- What is the Municipality's stance on sexual orientation discrimination?

- In your opinion, does your diversity management programme add any value to the organisation, in the sense that it has an impact on the majority of the workforce's opinion or understanding of LGBs?

- Ignorance and prejudice are the main reasons why people discriminate against others. How do you intend to change this?

- What interventions on the part of the Municipality exist to combat sexual orientation discrimination?