

EQUALITY COURTS IN THE WESTERN CAPE
The Equality Courts are established to protect your right to dignity

Soon we will be celebrating twenty years of our democracy, yet acts of discrimination, hate speech and harassment are still prevalent in our society. It is sad that the great strides we have made towards racial reconciliation and tolerance are occasionally undermined by some bigots among us who continue to judge their compatriots on the basis of the colour of their skins. These narrow-minded people are however not representative of how the majority of people feel about their fellow citizens. Their actions still annoy others and cause unnecessary heartache.

Almost 20 years of democracy has opened up many opportunities for both the young and the old to advance themselves. We have an obligation to share knowledge of what government has to offer in the realization of the Freedom Charter and how to Access Justice and the Right to Equality as enshrined in the Constitution.

According to the Constitution everyone is equal before the law and has the right to equal protection and benefit of the law. The right to equality is one of our fundamental human rights and the Promotion of Equality and Prevention on Unfair Discrimination Act, 4 of 2000 (the Equality Act), breathes life into this constitutional right. The Equality Act endeavours to facilitate a transition to a democratic society that is united in its diversity and guided by the principles of equality, fairness, equity, social progress, justice, human dignity and freedom. It places a positive duty and responsibility on the State, NGO's, Community Based Organisations, Traditional Institutions and all persons to promote equality.

The Equality Act can be used by all South Africans, including employers and employees, for disputes not provided for in the Employment Equity Act. Its aim is to:

- Prevent and prohibit any form of unfair discrimination and harassment;
- Promote equality;
- Prohibit the publication and dissemination of information which unfairly discriminates; and
- Prohibit hate speech.

We therefore all have an obligation to implement measures aimed at achieving equality in our areas of responsibility by eliminating any form of unfair discrimination and making sure inequality in any law, policy or practice, for which we are responsible, is prevented and prohibited.

The Department of Justice and Constitutional Development has therefore established Equality Courts throughout the Province. Over the past 7 years alone we have established forty six (46) Equality Courts at Magistrates Courts including at the High Court. These courts are designated to deal with Equality matters. The Equality Courts have the power to provide a suitable remedy to the victims of any unfair discrimination and harassment. This is done via a court order against the offender to either furnish a public apology, or a written apology, and/or even pay the victim compensation for the unfair treatment received. These courts truly give life to the Constitutional value that "All shall be equal before the law".

Best of all, there are no court fees that need to be paid. The only cost involved is the person's own costs such as paying the Sheriff for serving the documents on the other party unless the Presiding Officer decides against this. There is no need to have legal representation in order to bring the matter before the court. The complainant goes to the court and the Clerk of the Equality Court will assist him/her in completing the necessary forms, where after it is referred to the Presiding Officer.

A total of 86 Equality Court Clerks as well as 48 Magistrates and Judges are dealing with Equality Court Matters throughout the Western Cape. Furthermore, Equality Court training was provided to enable the court staff to dispense their task as change agents in our communities.

It is unfortunate that these Equality Courts are not utilised to their full potential. Every month statistics are collated from the designated Equality Courts through our National Operations Centre. However it transpired that there are some Courts reporting "nil" returns every month. This is of great concern as it may be attributed to the level of awareness among members of the community about the Equality Act and the Equality Courts. There are currently only **31** cases pending at all **46** Equality Courts in the Western Cape of which the majority relate to hate speech as well as discrimination on the grounds of race, religion and HIV status.

Many people particularly in our rural areas, experience the infringement of their dignity and human rights. The Department therefore in conjunction with other stakeholders, are embarking on further education initiatives to promote awareness of the constitutional rights bestowed on all persons as well as the role of the Equality Courts in enforcing these rights. The aim is to empower people to use the mechanisms created by Government and to ensure Access to Justice for All. We shall continue to rely on the Equality Courts to eradicate racism.

The Department therefore calls on all the people in the Western Cape to approach their nearest court to lodge a complaint with the Clerk of the Equality Court when they are unfairly discriminated against on the grounds of race, gender and disability as well as Hate Speech. After all, our aim is ensure a democratic society that is united in its diversity and guided by the principles of equality, fairness, equity, social progress, justice, human dignity and freedom.

*Adv Mohamed is the Western Cape Regional Head
of the Department of Justice and Constitutional Development.
8 October 2013*

STEP BY STEP GUIDE FOR LODGING AN EQUALITY CASE

STEP 1

Approach your nearest Magistrates' court and ask for the Equality court, you will find a clerk of the court who will give you a Form 2 to complete. Form 2 is the Form to use when commencing proceedings at the equality court. If you need assistance in completing the form, the clerk of the equality court (clerk) will assist you or you can go to the offices of the South African Human Rights Commission or the Commission for Gender Equality near you for assistance.



STEP 2

The clerk of the equality court must then notify the respondent (s) (the person (s) against whom you are lodging your complaint) about the complaint within 7 days using Form 3.



STEP 3

The Respondent (s) has 10 days within which to reply. Should the Respondent wish to state his/her side of the case he/she will be given a copy of Form 4 which they must complete and return to the clerk within 10 days. The Clerk has 7 days from receipt of the response to notify the complainant of the respondent's response.

STEP 4

Within 3 days of the expiry of the period within which the respondent(s) is meant to reply, the clerk must refer the matter to the Presiding Officer (the Magistrate or Judge who will hear the matter). The Presiding Officer has 7 days to decide whether the matter is to be heard at the equality court or whether it should be referred to an alternative forum such as the South African Human Rights Commission. If the Presiding Officer decides to refer the matter to the alternative forum, the clerk must notify the parties of the referral. The alternative forum must deal with the matter as expeditiously as possible. If it fails to do so or fails to resolve the matter, it must refer the matter back to the court with a report. If the matter is referred back, the Court has 7 days within which to give instructions as to how the matter should be dealt with.



STEP 5

If the Presiding Officer decides to hear the matter, the clerk must within 3 days assign a date for the directions hearing. At the directions hearing, the Presiding Officer will sort out issues such as: when can parties come to trial, does anyone need an interpreter, should Assessors be used etc.



STEP 6

Hearing

Equality Courts in the Western Cape Region

Court	Contact Person	Contact Details
1. Atlantis	Daniela Phillips	Tel: 021 572 1003 Fax: 021 572 3230 Private Bag X2 Reygersdal 7352 Wesfleur Circle Atlantis 7349
2. Beaufort West	Harold Maart	Tel: 023 415 1787 Fax: 023 414 4658 Private Bag X545 Beaufort West 6970 Cnr Church & Bird Streets Beaufort West 6970
3. Blue Downs	Patrick Peters	Tel: 021 909 9000 Private Bag x1 Kuilsvier 7579 Eersterus Street Bluedowns 7100
4. Bellville	Mac Salman	Tel 021 950 7700 Fax: 021 945 2255 Private Bag X10 Bellville 7535 Cnr Voortrekker Road & Landdros Street 7535
5. Bredasdorp	Noleen Bell	Tel: 028 424 1139 028 Fax: 028 424 1904 Private Bag X13 Bredasdorp 7280 22 Long Street Bredasdorp 7280

Equality Courts in the Western Cape Region

Court	Contact Person	Contact Details
6.Caledon	Patricia Mac Farlane + 1 other	Tel: 028 212 1076 Fax:028 214 1630 Private Bag X1 Caledon 7230 28 Church Street Caledon 7230
7.Calitzdorp	Lillian Abrahams	Tel: 044 213 3309 Fax:044 213 3013 Private Bag X01 Calitzdorp 6660 13 Queen Street Calitzdorp 6660
8.Cape Town	Barry Jantjies	Tel: 021 401 1547 Fax:021 461 1948 Private Bag X9017 Cape Town 8000 Cnr Caledon & Parade Streets Cape Town 8000
9.Ceres	Neville Leisa	Tel: 023 312 1112 Fax:023 316 1190 Private Bag X68 Ceres Voortrekker Road Ceres 6835
10.Clanwillian	Nambitha Mboniswa	Tel: 027 482 2114 Fax:027 482 2412 Private Bag X3 Clanwilliam 8135 4 Hoof Street Clanwilliam, 8135

Equality Courts in the Western Cape Region

Court	Contact Person	Contact Details
11.George	Irene Kowie	Tel: 044 802 5800 Fax:044 802 5861 Private Bag X6537 George 6530 Cnr York & Courtney Streets George 6530
12.Goodwood	Marlene Le Seuer	Tel: 021 592 3171 Fax:021 592 4064 Private Bag x4 Goodwood 7459 273 Voortrekker Road Goodwood 7459
13.Heidelberg	Clarence Geldenhuys	Tel: 028 722 1927 Fax:028 722 2374 Private Bag X13 Heidelberg 6665 52 Van Riebeeck Street Heidelberg 6665
14.Hermanus	Thembela Sopazi	Tel: 028 312 3713 Fax:028 313 1034 Private Bag X01 Hermanus 7200 63 Main Road Hermanus 7200

Equality Courts in the Western Cape Region

Court	Contact Person	Contact Details
15.Hopefield	Amanda Palvie	Tel: 022 723 0506 Fax:022 723 1522 Private Bag X4 Hopefield 7355 24 Voortrekker Road Hopefield 7355
16.Khayelitsha	Kutula Blom	Tel: 021 360 1400 Fax:021 360 1479 Private Bag X1 Khayelitsha 7783 Cnr Steve Biko & Walter Sisulu Street Khayelitsha
17.Knysna	Irene September	Tel: 044 382 1141 Fax: 044 382 2708 Private Bag X014 Knysna 6570 11 Main Street Knysna 6570
18.Kuils River	Michelle Hardneck	Tel: 021 903 1161 Fax:021 903 7902 Private Bag X1 Kuilsriver 7580 122 Van Riebeeck Avenue Kuilsriver 7580
19.Ladismith	Sarah Hills	Tel: 028 551 1009 Fax:028 551 1168 Private Bag X215 Ladismith 6655 57 Queen Street Ladismith, 6655

Equality Courts in the Western Cape Region

Court	Contact Person	Contact Details
20.Laingsburg	Anchill Van Graan	Tel: 023 551 1010 Fax:023 551 1296 Private Bag X42 Laingsburg 6900 Station Street Laingsburg 6900
21.Malmesbury	Olivia Solomons	Tel: 022 482 1121 Fax:022 482 4307 Private Bag X01 Malmesbury 7299 Piet Retief Street Malmesbury 7300
22.Mitchells Plain	Marlene Da Silva	Tel: 021 370 4200 Fax:021 391 3063 Private Bag X1 Mitchells Plain 1st Avenue East Ridge Mitchells Plain 7785
23.Montagu	Edwin Jansen	Tel: 023 614 1105 Fax:023 614 3974 Private Bag X5 Montagu 6720 39 Piet Retief Street Montagu 6720
24.Moorreesburg	Nigel Gurah	Tel: 022 433 1084 Fax:022 433 1488 Private Bag X1 Moorreesburg 7310 7 Station Street Moorreesburg, 7310

Equality Courts in the Western Cape Region

Court	Contact Person	Contact Details
25.Mossel Bay	Beatrice Mbetha	Tel: 044 693 3113 Fax:044 693 2891 Private Bag X11 Mossel Bay 6500 Louis Fourie Street Mossel Bay 6500
26.Murraysburg	Shireen Fortuin	Tel: 049 844 0001 Fax:049 844 0389 Private Bag X1 Murraysburg 6995 14 Church Street Murraysburg 6995
27.Oudtshoorn	Zelda Arries	Tel: 044 203 6400 Fax:044 272 5842 Private Bag X608 Oudtshoorn 6620 120 St John Street Oudtshoorn 6620
28.Paarl	Mzwandile Sondlo	Tel: 021 872 3127 Fax:021 872 9116 Private Bag X5003 Paarl 7622 Cnr Market Street & Bergriver Boulevard Paarl 7622

Equality Courts in the Western Cape Region

Court	Contact Person	Contact Details
29.Piketberg	Elgar Julius	Tel: 022 913 1110 Fax: 022 913 2155 Private Bag X12 Piketberg 7320 44 Voortrekker Street Piketberg 7320
30.Prince Albert	Vanessa Lottering	Tel: 023 541 1450 Fax:023 541 1955 Private Bag X70 Prince Albert 6930 26 Church Street Prince Albert 6930
31.Riversdale	Ronel Atson	Tel: 028 713 2428 Fax:028 713 3797 Private Bag X419 Riversdale 6670 13 Mitchell Street Riversdale 6670
32.Robertson	Diana Fabricius	Tel: 023 626 3023 Fax:023 6264885 Private Bag Robertson X612 Robertson 6705 Church Street Robertson 6705
33.Simons Town	Juanita Barron	Tel: 021 786 1561 Fax:021 786 3429 Private Bag X4 Simon's Town 7995 133 St Georges Street Simon's Town, 7995

Equality Courts in the Western Cape Region

Court	Contact Person	Contact Details
34.Somerset West	Malusi Zatu	Tel: 021 850 7420 Fax:021 852 7299 Private Bag X4 Somerset West 7130 33 Caledon Street Somerset West 7130
35.Stellenbosch	Melanie Swartz	Tel: 021 887 0114 Fax:021 883 9687 Private Bag X5009 Stellenbosch 7599 Alexander Street Stellenbosch 7599
36.Strand	Waleed Jenner	Tel: 021 854 7217 Fax:021 854 7014 Private Bag X3001 Strand 7139 1 Gordon's Bay Road Strand 7140
37.Swellendam	George Serfontein	Tel: 028 514 1109 Fax:028 514 2342 Private Bag X4 Swellendam 6740 88 Voortrekker Street Swellendam 6740
38.Tulbagh	Saray Meloyer	Tel: 023 230 0006 Fax:023 230 0099 Private Bag X1 Tulbagh 6820 Piet Retief Street Tulbagh, 6820

Equality Courts in the Western Cape Region

Court	Contact Person	Contact Details
39.Uniondale	Michael Botha	Tel: 044 752 1002 Fax:044 752 1237 Private Bag X230 Uniondale 6460 51 Voortrekker Street Uniondale 6460
40.Van Rhynsdorp	Julian Groenewald	Tel: 027 219 1002 Fax:027 219 1563 Private Bag X2 Van Rhynsdorp 8170 2 Church Street Van Rhynsdorp 8170
41.Vredenburg	Tehlina Tillings	Tel: 022 713 5274 Fax:022 713 1520 Private Bag X5 Vredenburg 7380 17 Piet Retief Street Vredenburg 7380
42.Vredendal	Antoinette Loff	Tel: 027 213 2010 Fax:027 213 4823 Private Bag X3 Vredendal 8160 24 Voortrekker Street Vredendal 8160
43.Wellington	Leanda Abrahams	Tel: 021 873 1145 Fax:021 864 2730 Private Bag X01 Wellington 7654 30 Jan van Riebeeck Street Wellington, 7655

Equality Courts in the Western Cape Region

Court	Contact Person	Contact Details
44.Worcester	Gina Pace	Tel: 023 342 2325 Fax:023 347 5024 Private Bag X3045 Worcester 6849 57 Adderley Street Worcester 6850
45.Wynberg	Natasha Thamzele	Tel: 021 799 1800 Fax:021 762 7842 Private Bag X3 Wynberg 7824 Church Street Wynberg 7800
46. High Court (Cape Town)	Ruanne Davids	Tel: 021 480 2411 Fax:021423 0412 Private Bag X9020 Cape Town 8000 35 Keerom Street Cape Town 8000