

DR J.S MOROKA LOCAL MUNICIPALITY



REVIEWED LEAVE MANAGEMENT POLICY

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1. INTRODUCTION

Dr J.S Moroka Local Municipality strives to regulate all forms of leave that are accrued and due to employees as a benefit and to outline procedures to be followed for the granting and taking of such leave. The Municipality recognises the need for its employees to be granted official periods of absence from work to enable them to attend to personal matters and for their personal development and well-being. With the exception of sick leave, family responsibility leave, and maternity leave, leave will be granted with due respect to the employee's rights and the operational requirements of the Municipality.

The municipality is committed to providing leave benefits that meet the needs of the employees, but which are equally sensitive to operational efficiency and financial viability.

The policy is based on SALGA's main Collective Agreement and the Basic Conditions of Employment Act 75 of 1997.

2. DEFINITIONS

For the purpose of this policy the following definition(s) apply:

"Annual Leave Cycle" : means the period of twelve (12) month's employment with the same employer immediately following an employee's commencement of employment or following the completion of that employee's existing leave cycle;

"Collective Agreement": means the SALGBC Main Collective Agreement

"Basic Conditions of Employment Act": means the Basic Conditions of Employment Act, Act No 75 of 1997

" Bona Fide": means genuine or real

" Contract of Employment" : means appointment contract/letter

“ **Day** ” : means working days, i.e. Mondays to Fridays excluding Public Holidays unless indicated otherwise by the context.

“ **EAP** ” : means the Employee Assistance Programme

“ **Employee** ” : shall include a permanent employee or a contract employee as defined by the Basic Conditions of Employment but excludes an independent contractor or its employees.

“ **Employer** ” : refers to employer/municipality within the registered scope of the South African Local Government Association (SALGA)

“ **Exigencies** ” : means an urgent need or demand

“ **Head of Department** ” : Any official appointed in terms of section 56 of the Municipal Systems Act, as amended (Act NO. 32 of 2000) as a Manager directly accountable to the Municipal Manager or his/her designate.

“ **Policy** ” : means the basic principles by which a municipality is guided.

“ **SALGBC** ” : means the South African Local Government Bargaining Council

“ **Three Year Leave Cycle** ” : means the period of thirty six (36) month’s employment with the same employer immediately following an employee’s commencement of employment or following the completion of that employee’s existing leave cycle;

“ **Thesis** ” : means written work involving personal research, written as part of a University Degree

“ **treatise** ” means written work dealing with a subject.

3. PURPOSE

- This Policy seeks to enforce compliance on the application of leave as per the Collective Agreement.

- This Policy seeks to regulate and avert the misuse of leave by employees in the expense of service delivery.
- This will promote a fair and equal treatment of employees when taking leave.
- This is to ascertain the rights of the employees to types and duration of leave they are entitled to take.

4. SCOPE OF APPLICATION.

This policy shall apply to all employees of the municipality, unless stated otherwise in the contract of employment.

5. LEGAL FRAMEWORK

- 5.1. RSA Constitution
- 5.2. SALGBC Main Collective Agreements
- 5.3. Basic Conditions of Employment Act, Act no. 75 of 1997
- 5.4. Compensation for Occupational Injury and Diseases (Act 85 of 1993)

6. POLICY PROVISION

LEAVE OF ABSENCE

6.1 ANNUAL LEAVE

Employees are entitled to a period of paid annual leave and the Head of the Departmental (HOD) shall approve or disapprove the leave application of their subordinate/s. The HR unit should notify the effected employees three months prior their days forfeited.

6.1.1 Procedures for application for Leave

- 6.1.1.1 Employees shall be notified of their annual leave entitlement in the contracts of employment.

6.1.1.2 An employee is required to complete a leave application form in full, stating the number of days to be taken, date of commencement of leave and the day of returning to work.

6.1.1.3 Department of Admin and Corporate Services: HR will verify the balance of leave days on the VIP system.

6.1.1.4 The relevant HOD shall be responsible for the approval and disapproval of leave and that the application should not be unreasonably declined.

6.1.1.5 Upon receipt of the leave application, the HOD must respond (approve/disapprove), within 3 working days after receipt. If there is no respond after 3 working days, the leave application will be automatically deemed approved.

6.1.1.6 On disapproval, the HOD should substantiate the disapproval, as the employee should be unreasonably deny the opportunity to take leave.

6.1.2 ANNUAL LEAVE ENTITLEMENT

6.1.2.1. Provision on leave entitlement, accruals, encashment and payment of leave on termination of services is determined by the South African Local Government Bargaining Council Agreements.

6.1.2.2. Employees shall be entitled to the following annual leave in a leave cycle:

6.1.2.2.1. Twenty four (24) days for a five (5) weekly days worker of which a minimum of sixteen (16) days are compulsory leave days to be taken in each leave cycle.

Annual leave is calculated according to the number of working days, excluding Saturdays, Sunday and public holidays. Leave cycle means the period of twelve (12) months employment with the same the municipality immediately following an employee's commencement of employment or following the completion of that existing leave cycle.

- 6.1.2.2.2. Twenty seven (27) days for Shift workers of which a minimum of nineteen (19) days are compulsory leave days to be taken in each leave cycle.
- 6.1.2.3. An employee is entitled to retain a maximum of forty-eight (48) accrued days that are capitalised on termination of service by the employee.
- 6.1.2.4. Any leave in excess of forty-eight (48) days may be encashed should the employee be unable to take such leave, despite applying and because the employer refused to grant him such leave, as a result of the employer's operational requirements. There must be sufficient reasons for disapproval of such leave.
If, despite, being afforded an opportunity to take leave, an employee fails, refuses or neglects to take the remaining leave due to his/her during this period, such remaining leave shall fall away.
At the end of a leave cycle, an employee may not have more than 48 days annual leave to his credit.
- 6.1.2.5. In the event of the termination of service, an employee shall be paid his leave entitlement calculated in terms of the relevant provisions of the Basic Conditions of Employment Act 75 of 1997, provided that the municipality shall not be obliged to encash more than 48 days annual leave upon the termination of that employee's contract of employment.
- 6.1.2.6. Applications for annual leave must be submitted in advance, taking into consideration the following notices:
- i. One day notice for one day leave up to 4 days;
 - ii. 5 days notice for more than 5 days leave.
- 6.1.2.7. Applications for leave submitted on a shorter period than the period, will only be allowed for emergencies or prior approval which must be confirmed by the relevant Head of Department.

6.1.2.8. It is the responsibility of both the applicant and the supervisor/ HOD to make sure that the leave application is approved before taking leave.

6.1.2.9. **Rescheduling:** An annual leave may only be rescheduled should the employee be unable to take such leave, despite applying and because the employer refused to grant him such leave as a result of the employer's operational requirements. The rescheduling of leave must be officially in writing i.e. letter, email or etc.

6.2 SICK LEAVE

6.2.1 Sick Leave with full Pay

6.2.1.1. Employees are entitled to eighty (80) days sick leave over a three (3) year cycle, commencing from the date of employment. Unused sick leave will expire at the end of the three (3) year cycle and cannot be encashed or accrued.

6.2.1.2. If an employee is unable to report for duty due to illness, they must notify their supervisor of their inability to report within a reasonable period, and the employee should complete the leave book/form within three working days after return to work, irrespective of days taken.

Employees are required to submit medical certificates, if more than two (2) consecutive days are taken as sick leave.

Eight 8 Week rule

6.2.1.3. An employee can take a maximum of two conservative day's sick leave, without a medical certificate, but he/she will have to complete the leave

application form. On the second occasion of sick leave within 8 weeks, the employee must produce the medical certificate.

6.2.1.4. Section 23 of the Basic Conditions of Employment Act states that the municipality is not required to pay an employee in terms of section 22 if the employee has been absent from work for more than two consecutive days or on more than two occasions during an eight-week period and, on request by the employer, does not produce a sick/medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury

6.2.1.5. The Municipality will only recognize medical certificates issued by Medical Practitioners registered with the Health Professions Council of South Africa (HPCSA).

6.2.2 Additional Sick Leave

6.2.2.1. In addition to the sick leave specified in the Main Collective Agreement, Part B, clause 8.2, the following special leave will apply:

6.2.2.1.1. An employee is entitled to a further 80 working days on half pay per sick leave cycle of 36 months,

6.2.2.1.2. If the maximum period of sick leave to which an employee is entitled has been granted to him, and owing to reasons of health, he is not able to resume duty, the Employer if: - the employee has applied for a medical boarding, the employer shall grant such employee additional 40 sick leave days without pay, and the employee must be examined by a registered medical practitioner or registered traditional healer appointed by the employer. The cost of such examination shall be borne by the employer.

6.2.3 Sick leave granted to alcohol and chemically dependent employees

6.2.4.1. Sick leave shall be granted to an employee who is certified by a registered medical practitioner as an alcoholic or chemically dependent person (drug addict) and who is prepared to receive treatment voluntarily, provided:

- a. That, the relevant employees shall subject themselves for hospitalized treatment and where that is not possible, subject themselves to outpatient treatment by a local practitioner in accordance with the directions of that institution;
- b. That, after being discharged from the institution, the relevant employee shall report daily to the institution for outpatient treatment as determined by the registered medical practitioner;
- c. That, the relevant employees attend therapy at a relevant medical practitioner/ institution;
- d. That, the relevant employee submits written proof from the medical practitioner/institution that he/ she has complied with all the requirements

6.2.4. ISOLATION OR QUARANTINE

- a. An employee(s) shall be granted paid special leave for the *duration specified* provided that a valid Medical Certificate issued by a registered Medical Practitioner placing the employee(s) under isolation or quarantine, in terms of the National Health Act (Act 61 of 2003), regulations promulgated thereunder or Regulations regulating Communicable Diseases

6.2.5 OTHER SPECIAL LEAVE

6.2.5.1. Municipal employees managed through the Municipality's Employee Wellness Programme shall be managed in terms of special dispensation leave committee,

chronic disease shall be granted additional to sick leave in compliance with the policy related criteria and procedures.

6.2.5.1.1 Employees who are required to attend the above mentioned in their personal capacity shall be required to apply for special leave;

6.2.5.2. Employees of the Municipality shall be entitled to take 10 paid day leave for religious/ cultural purposes.

6.2.5.3 Employees of the municipality with a medical certificate or a recommendation for the treatment by a registered medical practitioner shall be entitled to take paid leave for a maximum of 30 days for substance dependency twice in a sick leave cycle.

6.2.6 SPECIAL SICK LEAVE FOR INJURY ON DUTY CASES AND OCCUPATIONAL DISEASES

6.2.6.1 An employee who is absent from duty due to an injury arising out of his / her duties and occurring in the course thereof or owing to an illness contracted in the course of and as a result of his / her duties, shall be considered to be on duty on full pay for the period during which he is unfit to perform his duties.

6.2.6.2. If the case falls within the ambit of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993), the amount payable to him/her in terms of an act by means of periodic payments of his/her monthly earnings shall be paid over to the municipality, provided that the employer has already advanced amount to the employee.

6.2.6.3. Special sick leave may only be granted, if the employer was notified of an accident or disease as required in terms of Sections 38 and 68 of Compensation for

Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993), and that a satisfactory medical certificate from a registered medical practitioner is submitted to the employer.

6.2.6.4. "Remuneration" Includes all forms of remuneration as envisaged in the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993) and subject to all provisions of the Act.

6.2.6.5. Special sick leave may only be granted if the injury on duty has been approved by the Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993).

6.2.6.6. If the period of special sick leave in terms of Clause 14.1 exceeds three hundred and sixty five (365) calendar days, the Employer may take any decision it deems appropriate in line with ill health and/or incapacity of the Labour Relations Act.

6.3 **MATERNITY LEAVE**

6.3.1. The Municipality shall grant employees paid maternity leave for a period not exceeding four (4) months. This leave provision shall also apply to an employee whose child is still born.

6.3.2. Maternity leave may commence four (4) weeks before confinement (Bed rest).

6.3.3. An employee shall be required to submit written proof from a registered Medical Practitioner prior to approval of this leave.

6.3.4. When an employee returns to work at the end of the maternity period, the following conditions will apply:

- a. The employee will be guaranteed her job at the same rate of pay;

- b. If a restructuring exercise has taken place in her absence, a similar job at the same rate of pay will be provided at the same terms and conditions, in terms of Transfer and Placement Policy.

6.3.5. This leave provision applies to all female employees, excluding casual employee.

6.4 FAMILY RESPONSIBILITY LEAVE

6.4.1 In recognition of the fact that employees have individual and family responsibilities, the municipality shall grant an employee a maximum of five (5) paid working days per leave cycle.

6.4.2 This leave provision applies only to employees who have been in employment with the municipality for longer than four (4) months.

6.4.3 Family responsibility leave will be granted in the following circumstances:

- a. When the employee's child is born;
- b. When the employee's child is sick;
- c. When the employee's spouse or life partner is sick;
- d. In the event of death of the employee's spouse or life partner;
- e. In the event of death of the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

6.4.4 An employee shall be required to submit written proof for this leave (e.g. Death Certificate etc.), failure which the leave shall be converted to annual leave or unpaid leave.

6.5. PARENTAL LEAVE

- 6.5.1. An employee, who is a parent of a child, is entitled to at least ten (10) consecutive days parental leave, when the employee's child is born, or adoption is granted: or the child is placed in the care of a prospective adoptive parent by a competent court, pending the finalization of an adoption order, within a period of maternity leave (4 months as per Sec 25 of the BCEA).

6.6. STUDY LEAVE

Employees who are part-time or correspondence students studying for an approved qualification through a recognised institution, either through (Municipality's funding or Self-funding) shall be granted examination and study leave as follows:

- 6.6.1. An employee shall be granted one day of special leave on the day, for every examination he/she is required to write, which is prescribed by the course which he has been registered for and which has been approved by the employer.
- 6.6.2. Two working days special leave on full pay shall be granted to an employee in order to prepare for every examination prescribed or approved by the employer. Provided that if the official results of the examination are not submitted to the relevant Manager or Department within six months of the examination, the special leave will be converted to annual leave or leave without pay.
- 6.6.3. The above provisions (6.5.1 and 6.5.2) may be applied once only in respect of a re-examination, as a result of the employee failing the examination, and which has to be repeated.

- 6.6.4. Additional leave for Post Graduate Studies: Special leave for a treatise or thesis will be granted with full pay to a maximum of five (5) working days leave per qualification.
- 6.6.5. Attending classes during office hours: An employee who is not a bursar and who studies part-time or by means of correspondence in a field applicable to the employer and who, as a result of his studies, is required to be absent from his place of work, will be granted annual leave and special leave on a **50:50** basis for the time he is released from duty.
- 6.6.6. In respect of clause 6.5.5, above, if he does not have annual leave to his credit, unpaid annual leave will be granted instead.
- 6.6.7. Employees who have been in the employ of the Municipality for a period of 12 months and more; and are studying towards an NQF level 09 and above qualification may apply for paid sabbatical leave of 22 days per leave cycle which shall not be unreasonably withheld, such employee shall remain an employee of Local Government upon completion of the said leave

6.6 ADOPTION / SURROGATE LEAVE

- 6.6.1. When an employee legally adopts a child from 6 months of age or younger for whom the employee will be the adoptive parent, may be granted three months paid adoption leave for female employees and 10 days for male employees.
- 6.6.2. The leave only becomes available and applicable after the employee has submitted the child's birth certificate and the adoption order.

6.7. LONG SERVICE

In addition to normal leave, an employee shall qualify for the following additional leave as recognition for service at the same employer, which shall be paid out respectively once only,

on the date on which the various periods of continued service have been completed, as follows:

- a. After 5 years services – 5 working days
- b. After 10 years' service - 10 working days
- c. After 15 years' service - 20 working days
- d. After 20 years' service – 30 working days
- e. After 25 years' service – 30 working days
- f. After 30 years' service – 30 working days
- g. After 35 years' service – 30 working days
- h. After 40 years' service – 30 working days
- i. After 45 years' service – 30 working days

An employee may choose to either utilize the leave for holiday/resting purposes or encash such leave within twelve (12) months.

6.8. GENERAL

6.8.1. Special leave (to a maximum of 10 days) on full pay shall be granted to an employee subject to submission of supporting documents if the employee:

6.8.1.1. Is attending a meeting or conference approved by the employer.

6.8.1.2. Gives evidence in a court case after being served with a subpoena and or summons. Upon submission of a written subpoena, confirmation or notice of set down, either in court, Department of Labour, CCMA, SALGBC or any other legal processes.

6.8.1.2.1. In executing the provisions of paragraph 6.7.1.2 above; subpoenaed employees shall obtain prior approval from their line managers to leave their work stations.

- 6.8.1.2.2. Employees who are required to attend the above mentioned in their personal capacity shall be required to apply for their annual leave.
- 6.8.1.3. Special leave on full pay may be granted to an employee to enable such employee to take part in a bona fide sports event representing South Africa as a selected member or official.
- 6.8.1.4. Special leave on full pay will be granted to an employee who has been arrested or has to appear in court on a criminal charge pending the outcomes of the court proceedings, provided the matter arose in the performance of the employee's duties.
- 6.8.1.5. Special leave granted in terms of clause 6.7.1 above shall include any time actually and necessarily taken up by traveling for the purposes for which the leave is granted.
- 6.8.1.6. Employees who are employed on a part-time basis to officiate during national, provincial and local government elections shall be granted paid special leave for the duration of the elections as specified in the letter of appointment issued by the Independent Electoral Commission of South Africa (IEC).

7. ROLE AND RESPONSIBILITIES

The Role of the Admin & Corporate Services Department

The role of the Corporate Services Department is to:

- a) Oversee the administration and management of issues of conditions of services including leave;
- b) Monitor and evaluate allocation of leave within the Municipality;
- c) Advising top management on the implementation of conditions of service issues including, leave;
- d) Managing leave and implementing policy provisions accordingly;
- e) Ensuring that leave is managed and administered appropriately;

- f) Keep updated records of leave for reporting and audit purposes.

The Role of the Unit/Divisional Manager/HOD/Departmental Secretary/ Unit Senior Admin Officer:

- a) must ensure that leave application forms are submitted to the Department: Admin & Corporate Services: HRM & D (Internal Conditions of Services);
- b) must ensure that annual leave is authorized by the relevant HOD in advance taking into account operational constraints.
- c) are responsible for ensuring that their staff members are aware of the provisions of this policy and that correct procedures are adhered to.
- d) must ensure that all female employees are informed of their entitlement to statutory maternity right and ensure that those rights are understood by all employees

The Role of the Employee

- a. Ensure that leave applications are submitted on time and approved before leave is taken. As per Clause 6.1.1.5 which states that upon receipt of the leave application, the HOD must respond (approve/disapprove), within 3 working days after receipt. If there is no respond after 3 working days, the leave application will be automatically deemed approved.
- b. Adhere to the prescribed legislations, regulatory frameworks and provisions as outlined in this policy, the BCEA, Collective agreement (Central and Divisional).

8. MONITORING, EVALUATION AND REPORTING

The Executive Manager: Admin & Corporate Services reports to the Municipal Manager and Council on a quarterly basis on the conditions of service including leave management, and on specific cases, when required to do so. If and when this policy or provision thereof is amended, the amended policy or provision thereof will supersede the previous one.

9. AUTHORITY

9.1. The authority is vested in Council.

Council Resolution: **R216.03.2023 ND**

Date of Approval: **30th March 2023**

Accounting Officer Signature: _____

- (a) Any dispute arising from this policy due to ambiguous wording or phrasing should be referred to the Local Labour Forum for adjudication. Resolutions from the LLF must be incorporated into the policy.

16 AUTHORITY

16.1. The authority is vested with the Council.

Council Resolution: **R216.03.2023 ND**

Date of Approval: **30th March 2023**

Accounting Officer Signature: _____

7.6.1. As stipulated under sec 16 of BCEA(1) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and one-half times the employee's wage for each hour worked. (2) If an employee works less than the employee's ordinary shift on a Sunday and the payment that the employee is entitled to in terms of subsection (1) is less than the employee's ordinary daily wage, the employer must pay the employee the employee's ordinary daily wage. (3) Despite subsections (1) and (2), an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on the Sunday and the pay that the employee is entitled to in terms of subsections (1) and (2). (4) Any time worked on a Sunday by an employee who does not ordinarily work on a Sunday is not taken into account in calculating an employee's ordinary hours of work in terms of section 9(1) and (2), but is taken into account in calculating the overtime worked by the employee in terms of section 10(1)(b). (5) If a shift worked by an employee falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, unless the greater portion of the shift was worked on the other day, in which case the whole shift is deemed to have been worked on the other day. (6) (a) An employer must grant paid time off in terms of subsection (3) within one month of the employee becoming entitled to it. (b) An agreement in writing may increase the period contemplated by paragraph (a) to 12 months.

7.7. IMPLEMENTATION AND REVIEW

7.7.1. The overtime earning threshold will be determine by Minister of Labour as published in the Government Gazette.

7.7.2. It will be further reviewed and amended as the need arises.

8. AUTHORITY

8.1. The authority is vested with the Council.

Council Resolution: **R216.03.2023 ND**

Date of Approval: **30th March 2023**

Accounting Officer Signature: _____

22.3 Non-Section 56 Employees

In a case where the employee is not satisfied with the assessment proceedings or results, the employee must apply in writing for reconsidering the performance review. The application for the appeal must be submitted within 14 working days from the date in which the assessment feedback has been communicated with the concerned employee. The employee shall look for a representative for assistance and support, example, Union Representatives.

The application must be submitted to the Admin and Corporate Services Department (Human Resource Section) which shall then appoint a neutral individual, agreed to by both parties, to review the assessments outcome and decide on a final score. If the two parties do not agree on the neutral person, the matter will be referred to the Municipal Manager.

The Municipal Manager must appoint an Appeals Committee to deal with such appeals. The findings of the Appeals Committee should be forwarded to the Municipal Manager with recommendations. The Municipal Manager must make a final decision on the matter and his/her decision will be regarded as final and binding.

22. EFFECTIVE DATE OF THE POLICY

The policy will be effective from the date of approval by Council and should be read together with the Performance Management System Framework.

23. POLICY REVIEW

This policy will be reviewed or amended annually and the amendments must be approved by Council.

Council Resolution: **R216.03.2023 ND**

Date of Approval: **30th March 2023**

Accounting Officer Signature: _____

mistakes in selection and placement. As a follow up, the wrongly placed employee is transferred to a more suitable job.

e) Shift transfers: This is pretty common where there is more than one shift and when there is regularised rotation.

f) Voluntary transfers – This happen wherein the employee make a request to the employer to horizontally transfer him/her

10 RECRUITMENT, SELECTION AND APPOINTMENT FOR SENIOR MANAGERS

- 10.1. The Senior Managers (as per Section 54 and 56) are regulated by Government Gazette 37245: Regulations on appointments and conditions of employment for senior managers (municipal managers and managers directly accountable to municipal managers) issued on the 17 January 2014.
- 10.2. **See the attached annexure (refer to Chapter 3).**

11. AUTHORITY

- 11.1. The authority is vested with the Council.

Council Resolution: **R216.03.2023 ND**

Date of Approval: **30th March 2023**

Accounting Officer Signature: _____

