

# DR BEYERS NAUDE MUNICIPALITY

<b>DR BEYERS NAUDE MUNICIPALITY</b>	<b>POLICY: LEAVE</b>	<b>RESPONSIBLE ADMINISTRATION UNIT</b>
<b>ADOPTED BY COUNCIL ON 23 MAY 2017 : RESOLUTION : COUNCIL- 063/17</b>	<b>TO BE REVISED: MAY : 2018</b>	<b>CORPORATE SERVICES AMALGAMATION HR WORKING GROUP</b>

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## **1. POLICY STATEMENT AND PURPOSE**

This policy seeks to give effect to the South African Local Government Bargaining Council (SALGBC) Collective Agreement on Conditions of Services which came into effect on 01 January 2004 and the SALGBC Eastern Cape Division Collective Agreement on Conditions of Services which came into effect from the 01 April 2011;

It also seeks to regulate the taking, usage, accumulation and management of leave by employees; and

It promotes common and uniform leave management for employees within the Municipality and replaces or supersedes all existing leave policies.

These sections of this policy emanated and/or are regulated by the South African Local Government Bargaining Council Collective Agreement on Conditions of Services, therefore cannot be changed, namely:

- ✓ Annual leave;
- ✓ Sick leave and Additional paid sick leave;
- ✓ Maternity leave; and
- ✓ Family responsibility leave.
- ✓ Incapacity Leave
- ✓ Special leave [Sports, Long service, family etc]

## **2. SCOPE OF APPLICATION**

This policy is applicable to all employees, except employees employed under section 56 of the Local Government: Municipal Systems Act (Act 32 of 2000) as amended.

## **3. LEGISLATIVE FRAMEWORK**

- ✓ Basic Conditions of Employment Act 75 of 1997 as amended.
- ✓ SALGBC Main Collective Agreement.
- ✓ Eastern Cape Consolidated Conditions of Service.

## **4. CONSULTATION PROCESS**

- ✓ Local Labour Forum
- ✓ Municipal Management Structures
- ✓ Union members

## 5. COMMUNICATION / AWARENESS OF THE LEAVE MANAGEMENT POLICY

- ✓ Local Labour Forum
- ✓ EXCO Committee
- ✓ Council

## 6. DEFINITIONS CLAUSE

Definitions on terms and acronyms used within this policy

- ✓ **All expressions** used in this policy which are defined in the Labour Relations Act 66 of 1995 and as amended, shall bear the same meaning as in the Act and unless the contrary intention appears;
- ✓ **Words importing** the masculine gender shall include the feminine;
- ✓ **All reference** to days shall be to working days;
- ✓ **Cycle shall** mean the period of twelve (12) months consecutive employment with the same employer immediately following an employee's commencement of employment or following the completion of that employee's existing leave cycle;
- ✓ **Senior Management** shall be those employees employed as a Municipal Manager, and Managers directly accountable to the Municipal Manager;
- ✓ **An employee** is defined as follows:
- ✓ **any person**, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and
- ✓ **any other person** who in any manner assists in carrying on or conducting the business of an employer, and 'employed' and 'employment' have meanings corresponding to that of 'employee';
- ✓ **Medical practitioners** shall mean all practitioners as defined by the Health Professions Council of South Africa (Medical and Dental Practitioners) and Traditional Healers registered with the recognised professional council in terms of legislation;
- ✓ **Valid Medical Certificate** means an original medical certificate which complies with the Ethical and Professional Rules of the Medical and Dental Professions Board of the Health Professions Council of South Africa issued by a registered medical practitioner, or any other person who is certified to diagnose and treat patients, who is registered with a professional council established by an Act of Parliament;
- ✓ **Child**: means a person who is under 18 years of age and as per the provisions of the medical scheme rules;
- ✓ **Life Partner** refers to a spousal equivalent that lives together, in the same residence, indefinitely with a staff member, with whom s/he shares a common domestic life.
- ✓

Whilst not being a legal marriage the relationship encompasses most or all of the obligations that would normally arise out of a legal marriage including responsibility for each other's welfare;

- ✓ **A dependant** is someone who is sustained by another person, such as a child supported by his or her parents, generally includes all of those people whom the person is under a legal duty to support financially or otherwise, such as a spouse or life partner and minor children;

## 7. POLICY PROVISIONS

### 7.1 Annual Leave

- 7.1.1 Council shall grant an employee the following annual working days leave in a leave cycle (associated to the date of employment of the employee):
  - 7.1.2 Twenty-four (24) days for a five- (5) day worker; and
  - 7.1.3 Twenty-seven (27) days for a six- (6) day worker.
  - 7.1.4 An employee is required to take leave within each leave cycle as follows:
    - 7.1.5 A five- (5) day worker shall take a minimum of sixteen (16) consecutive days leave; and
    - 7.1.6 A six- (6) day worker shall take a minimum of nineteen (19) consecutive days leave.
- 7.2 Leave may be accumulated to a maximum of forty-eight (48) days.
- 7.3 Should the employee be unable to take such leave as a result of operational requirements (due to work related obligations) the employee may be allowed to take such leave in the following year before end of June. If, despite being afforded an opportunity to take leave, an employee fails, refuses or neglects to take the remaining leave due to him during this period, such remaining leave shall be forfeited.
- 7.4 Employees are therefore encouraged to take their leave periodically when their leave days exceed forty eight (48) days.
- 7.5 When employee's leave days are about to reach forty eight (48) days the Departmental Heads and the employees affected shall be notified by the Human Resource department.
- 7.6 Departmental Heads are responsible for the approval of forfeited leave.

- 7.7 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, 1997.

## **8. SICK LEAVE**

- 8.1 Council shall grant an employee eighty (80) days sick leave in a three (3) years cycle.
- 8.2 Council shall require a medical certificate from a registered medical practitioner if more than two (2) consecutive days are taken as sick leave.
- 8.3 Council shall be in a position to consult the employees' Doctor(s) for information verification and enquiries in the event that there are serious anomalies regarding the sick leave taken.
- 8.4 Council is further not required to pay an employee if an employee is absent on more than two (2) occasions during an eight-week period, and on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sick or injury.
- 8.5 In terms of SALGBC Collective Agreement on Conditions of Services which came into effect on 01 January 2004, The Divisions of Council at SALGBC shall be responsible for concluding agreements on additional paid sick leave and other measures to manage the taking, accrual and/or conversion of sick leave and administrative arrangements for the taking of sick leave.
- 8.6 A sick absenteeism rate (SAR) of twelve (12) days per annum for 'every day' is set by the municipality. SAR of more than the limit of twelve (12) days per annum is unacceptable and must be investigated by the supervisor.
- 8.7 Employees who are on sick leave for any reason are assumed to be confined to their places of residence. Should such employees not comply with this requirement, there is a malicious suspension in the opinion of the Employer, investigations will be conducted against the affected employee.

## **9. ADDITIONAL PAID SICK LEAVE**

- 9.1 Employees who have a balance of at least sixty (60) working days unused sick leave at the end of a three year cycle, shall receive an additional twenty (20) working days paid back leave to which he will be entitled in the ensuing cycle, provided that in respect of any sick leave cycle no employee shall become entitled to more than one hundred (100) working days sick leave on full pay.

9.2 If the maximum period of sick leave to which an employee is entitled has been granted to him and, owing to reasons of ill health, he is not able to resume duty, the Municipality must grant such employee an additional sixty (60) working days sick leave in respect of chronic illnesses and/ or illnesses requiring hospitalization, which shall be made up as follows:

- Thirty (30) working days on full pay;
- Thirty (30) working days on half

The following conditions shall apply:

- a) Provided that the employee has submitted a satisfactory certificate from a registered medical or dental practitioner, or a Traditional Healer registered with a recognized Professional Council in terms of legislation; and
- b) If the employer is satisfied that the employee is - at that moment not permanently incapacitated to resume his normal duties
- c) Such additional sick leave must be granted in respect of separate periods of absence and in respect of illnesses of different kinds.
- d) On written application by an employee, who has exhausted his/her full paid sick leave and additional full paid sick leave, annual leave which he has to his credit must be granted to supplement sick leave on half pay or no pay at the discretion of the employee concerned.

## **10. MEASURES TO MANAGE SICK LEAVE**

- 10.1 If an employee to whom annual leave has been granted is certified sick by a registered medical or dental practitioner after his annual leave has commenced, that part of his annual leave during which he was thus certified sick shall be converted into sick leave on submission of the prescribed certificate by such medical or dental practitioner or a Traditional Healer registered with a recognized professional council in terms of legislation.
- 10.2 if, due to illness, an employee is unable to take annual leave already deducted, he shall be credited with an equal number of annual leave days.
- 10.3 An employee may not during any period of sick leave approved in terms of these conditions, resume service without the approval of a registered medical practitioner.
- 10.4 An employee who is absent from service because of illness must take all reasonable steps to notify his immediate supervisor (nominee) as soon as possible.
- 10.5 An employee to whom the maximum period of full paid sick leave has been granted, may be granted sick leave without pay for not more than two hundred and fifty (250) working days in any cycle if the Municipality is satisfied that such an employee is not permanently incapacitated to resume his duties, provided that where sick leave without pay exceeds forty (40) consecutive days, the employee must be examined by a registered medical practitioner appointed by the Municipality. The cost of such examination shall be paid by the Municipality.

- 10.6 The Municipality may, prior to granting additional paid sick leave, require an employee to submit himself to an examination by a registered medical or dental practitioner appointed by the Municipality and the cost of such examination shall be paid by the Municipality.

## **11. MATERNITY LEAVE**

Maternity leave for confinement purposes may be granted to an employee subject to the following qualification requirements and restrictions:

- 11.1 The employee must be employed with the municipality and have completed a qualifying period of service of twelve (12) calendar months (one year's service) continuous service at the municipality before any provision in this policy may be utilized by such employee;
- 11.2 An employee shall provide the employer with four weeks' notice of the intention to take maternity leave prior to the commencement date of employee's maternity leave i.e. at least four weeks before and six weeks after the confinement as provisions of the Basic Conditions of Employment Act 1997;
- 11.3 An employee shall be entitled to receive three (3) months paid maternity leave, with no limit to the number of confinements;
- 11.4 An employee shall retain her normal benefits and normal incremental date for a period of absence due to maternity leave;
- 11.5 An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six (6) weeks after the miscarriage or stillbirth, whether or not the employee had commenced maternity leave at the time of the miscarriage or still birth.
- 11.6 Should an employee not qualify for the benefit in terms of the conditions in Clause 7.1, she may exercise a choice in respect of the utilization of available vacation leave with full payment or vacation leave without payment.
- 11.7 An employee will be required to work back the period of paid maternity leave actually taken.
- 11.8 An employee without broken service but also has undergone a natural movement (recruitment, promotion, termination, transfer etc) within the service of the same employer and meets the requirements of clause 7.1 shall be entitled to paid maternity leave as per provisions of clause 7.2 and/or 7.5 above.
- 11.9 Should an employee be willing to work until it is closer to the confinement date, such an employee must submit a Doctor's documentation which confirms the safety/fitness for work during these days.



11.10 The Doctor who books the above employee fit for work during the confinement period should be the same Doctor to book this employee off for sick leave on pregnancy related illnesses.

## 12. FAMILY RESPONSIBILITY LEAVE

This section applies to all employees who has been in employment with an employer for longer than four [4] months;

12.1 An employer must grant an employee, during each annual leave cycle, at the request of the employee, five days' paid leave, which the employee is entitled to take-

[a] when the employee's child is born;

[b] when the employee's child is sick; or

[c] the employee's spouse or life partner is sick

[d] in the event of the death of-

[i] the employee's spouse or life partner; or

[ii] the employee's parent, adoptive parent, grandparent, parents – in law, child, adopted child, grandchild or sibling (a child in relation to another or others of the same parent; a brother or sister).

12.2 Subject to subsection 12.1 an employer must pay an employee family responsibility leaves as follows:-

[a] the wage the employee would ordinarily have received for work on that day; and

[b] on the employee's usual pay day.

12.3 An employee may take family responsibility leave in respect of the whole or a part of a day.

12.4 Before paying an employee for leave in terms of this section, an employer may require reasonable proof of an event contemplated in subsection [8.1] for which the leave was required.

12.5 An employee's unused entitlement to leave in terms of this section lapses at the end of the annual leave cycle in which it accrues.

## **13. SPECIAL LEAVE**

### **13.1 Study Leave**

- 13.1.1 No study leave would be granted on Friday where an employee is writing exams on a Monday.
- 13.1.2 There will be no study leave granted for employees writing class tests, failed or supplementary examinations and attending contact sessions during working hours. Employees are encouraged to use their annual or unpaid leave to cover such working days.
- 13.1.2 Employees who are studying will qualify for two (2) working days leave for study leave days.
- 13.1.3 Accordingly study leave applications and proposals should be discussed by staff with their managers as part of their annual work plan or programme.
- 13.1.4 Leave applications should be submitted on the Dr Beyers Naude Local Municipality's normal approved application form where the Manager / Supervisor recommend and the Head of Department approves.
- 13.1.5 The main aim of the policy in relation to combining work and study commitments is that managers and employees negotiate clear, workable, and affordable arrangements from which both the Municipality and its employees will benefit.
- 13.1.6 All Special leave applications for examinations must be accompanied by an authentic examination time table from the relevant institution.

### **13.2 Workshop/Training/Seminar/Conferences**

- 13.2.1 Leave for attendance of workshops / training / seminars / conferences is delegated to the Council in support of any provisions that requires attention in respect of workshops as and when required.

## **14. ACCUMULATION AND RETENTION OF LEAVE**

- 14.1 A five (5) day worker shall accumulate a maximum of twenty- four (24) working days per cycle.

## **15. ENCASHMENT OF LEAVE**

- 15.1 No leave will be encashed except on termination of service.
- 15.2 Should an employee refuse or fail to take such leave having been provided with a fair opportunity to take leave, such leave days shall be forfeited.

## **16. UNPAID LEAVE**

- 16.1 Any leave taken by the employee without approval automatically becomes unpaid leave after the necessary counselling procedure must be followed.
- 16.2 Participation in an illegal or legal industrial action constitutes unpaid leave i.e. no work no pay policy shall apply.
- 16.3 Failure of the employee to provide the employer with a medical certificate on request after having been absent from work on more than two (2) occasions in an eight week period constitutes unpaid leave.
- 16.4 Failure of the employee to provide the employer on request with supporting documents (death, birth certificates etc.) in relation to family responsibility and other special leave constitutes unpaid leave.

## **17. TIME OFF FOR UNIONS**

- 17.1 Shop stewards shall be entitled to 15 (fifteen) days per year with full pay during working hours for trade union activities and training.
- 17.2 Six (6) days of each shop steward's annual entitlement of time off shall be pooled and re-allocated at the trade union's discretion to the shop stewards at the employer concerned, provided that no single shop steward may take more than 21 (twenty-one) days off per year and that the total days in the pool are not exceeded.
- 17.3 Further request for time off for shop stewards shall not be unreasonably refused.
- 17.4 Trade unions shall give notice to the employer in advance of the intention to take time off.

## **18. LEAVE LESS THAN EIGHT (8) HOURS A DAY**

- 18.1 If an employee goes on annual leave that employee can leave at 10h00.
- 18.2 If an employee has worked for less than four (4) hours a day and take leave for the remaining hours such an employee will be required to submit a leave form to make use of available leave days and such day will be regarded as if an employee was on leave for the entire working day.
- 18.3 If an employee has worked for four (4) hours and/or more in a working day and takes leave for the remaining hours such day will be regarded as if an employee has worked the entire working day, provided that the same employee does not submit the same request in an eight week period. In that event a person should submit a full days leave.

## **19. ABSENTEEISM**

- 19.1 Regardless of the reason, employees are not entitled to be absent from work without prior permission. The disciplinary code provides for severe disciplinary action where employees infringe this policy.
- 19.2 Where an employee is absent unexpectedly due to emergencies like ill health or unavoidable reasons, the employee is required to contact his/her HOD'/manager/supervisor directly, before 10h00 on the day of absence or within three hours of the commencement of the shift in case of shift workers, so as to provide the following information:
- The reason for the absence
  - The expected duration of the absence
- 19.3 Should an employee fail to communicate directly to his/her HOD/manager/supervisor or, in the absence of his/her HOD/manager/supervisor, the employee will be held responsible should a message not reach his/her HOD/manager/supervisor. The employee is encouraged and required to make follow ups and make sure that the HOD/manager/supervisor receives the message.
- 19.4 Any absence from work without authority or good cause will result in the employee not being entitled to any remuneration or charged for misconduct for the period of absence (AWOL).
- 19.5 Should the employee fail to inform Management as per 15.1 above and later submit the medical certificate he/she will still be liable for disciplinary action for failure to inform management of his/her whereabouts.
- 19.6 Should the employee fail to submit a medical certificate for absence of more than two consecutive days, he/she will not be paid for that period of absence.
- 19.7 The employee will also not be entitled to payment should he/she fail to submit a valid certificate from a practitioner registered with the Health Professions Council and have been absent on more than two occasions during an eight-week period.
- 19.8 Any employee who breaches the above requirements will be subject to disciplinary action in terms of the agreement.

### **19.9 Desertion**

- 19.9.1 An employee who does not report at work for a period of five (5) working days or more will be deemed to have deserted his employment.
- 19.9.2 The employer has the right to terminate his employment contract if it is satisfied after investigation that the employee has no intention to return to work.

19.9.3 In order to establish the facts an investigation by the relevant HOD/manager/supervisor must be instituted to determine the employee's whereabouts and whether he/she intends to return to work, they should inform the HR Department immediately.

19.9.4 This should be done via the making of enquiries with the employee's colleagues, phoning the employee or next of kin, sending notes, letters, and telegrams to the employee requesting the employee to explain his/her absence.

19.9.5 It is only after this procedure has been exhausted and the employee has been given sufficient opportunity to respond, that a disciplinary hearing will be conducted.

19.9.6 Should a hearing took place in absentia and the employee returns to the workplace after his/her employment has been terminated an Appeal Hearing shall be held, provided that such appeal application was submitted within the appeal application time frame.

## **20. ROLES AND RESPONSIBILITIES**

### **20.1 HEADS OF DEPARTMENTS**

Heads of Departments shall be responsible to ensure effective management of leave through the following:

20.1.1 Monitoring, with the assistance of the Human Resource department, the taking of leave within the department to ensure that no abuse thereof occurs through and not limited to the scrutiny of attendance records to establish negative trends in attendance since such behavior may often be indicative of more severe problems (psychological, physical etc.).

20.1.2 Ensuring that the procedure manual in relation to leave management is adhered to at all times.

20.1.3 Ensuring that all employees have a leave plan for their leave cycle and adhere to it.

20.1.4 Ensure that leave taken is in accordance with the leave plan.

20.1.5 Reconcile attendance registers with the leave registers and leave forms in their respective departments on a monthly basis before submission to the Human Resource department.

### **20.2 EMPLOYEES**

Employees shall be responsible to ensure that they take their leave within the prescripts of the Conditions of Service and the Leave Policy and commit to no abuse of their leave whatsoever.

## **20.3 HUMAN RESOURCE DEPARTMENT**

Responsibilities of the Human Resource Department in leave management shall include but not limited to the following:

- 20.3.1 Consult regularly with managers and supervisors responsible for managing employee leave.
- 20.3.2 Provide guidance and technical assistance before administrative action procedures are initiated to ensure the proposed action is appropriate and timely.
- 20.3.3 Ensure managers and supervisors have up-to-date information concerning disposition of leave related administrative action.
- 20.3.4 Monitor and analyze site performance: Sick Leave and Leave Without Pay (LWOP) usage, as well as unscheduled absence occurrences regularly, on a pay period basis at a minimum.
- 20.3.5 Identify “hot” spots (e.g. excessive unscheduled occurrences) and advise Management on corrective action to be taken.

## **21. DISPUTE RESOLUTION PROCEDURES**

- 21.1 Any dispute relating to both the interpretation of the provisions of this policy as well as the Municipal decision on any specifics in leave case(s) shall be dealt with in accordance with the dispute resolution mechanism provided for in the applicable SALGBC Collective Agreement and/or Labour Relations legislation.

## **22. POLICY WAIVING AND IMPLEMENTATION PROVISIONS**

- 22.1 This policy may be partly or wholly waived by the Municipality in consultation with the Trade Unions.
- 22.2 This policy shall be superseded by a Bargaining Council Resolution, legislation and enforceable legal order.
- 22.3 This policy takes precedence over all other leave provisions that exist.
- 22.4 This policy shall be reviewed within one (1) year of the new municipality’s operations and thereafter every two (2) years depending on the Organizational Developmental changes and the Collective Agreement amendments.

## **23. CONCLUSION**

The correct implementation of this policy within the Municipality will have great benefits for both employers and staff members. It will assist in proper regulation of leave by

Municipality and also give effect to the implementation of SALGBC Collective Agreement on uniform conditions of service.