

Blouberg Municipality



CHAPTER 16: INCAPACITY DUE TO OPERATIONAL REQUIREMENTS POLICY

1. PREAMBLE

The Labour Relations Act sets out certain guidelines in handling dismissal due to operational requirements. The following are the Municipality's policy provisions in dealing with dismissal due to operational requirements.

2. PURPOSE

The purpose of this policy is to ensure the Municipality's operational efficiency while at the same time ensuring that termination of employment for reasons of operational requirements takes place substantively and procedurally fair.

3. SCOPE OF APPLICATION

The policy shall apply to all staff members of the Municipality.

4. LEGISLATIVE AND POLICY FRAMEWORK

- Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996)
- Municipal Systems Act, 2000 (Act No. 32 of 2000)
- Municipal Finance Management Act, 2003 (Act No. 56 of 2003)
- Labour Relations Act, 1995 (Act No. 66 of 1995)
- Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997)
- South African Local Government Bargaining Council: Collective Agreements

5. DEFINITIONS

All terminology used in this policy shall bear the same meaning as in the Regulations or applicable legislation, or as defined and / or explained in the Glossary of Terminology in the Human Resources Policies Manual.

6. PROBLEM STATEMENT

The municipality is faced with many employees at a support level while there is a shortage of personnel at key service delivery levels. The municipality is also faced with low revenue collection which will compel the municipality from time to time to review its operations.

7. POLICY PROVISIONS

7.1 Consultation

7.1.1 The purpose of consultation shall be to allow parties, in the form of a joint problem-solving exercise, to strive for consensus, if that is possible.

7.1.2 Parties shall attempt to reach consensus on, amongst other things, appropriate measures to avoid dismissals.

7.1.3 In order for this to be effective, the consultation process shall commence as soon as a reduction of the workforce, through retrenchments or redundancies, is contemplated by the Municipality so that possible alternatives can be explored.

7.1.4 The Municipality shall in all good faith keep open mind throughout and seriously consider proposals put forward.

7.1.5 Proper consultation shall ensure:

- (a)** the opportunity for the Municipality to meet with and report back to staff members;
- (b)** the opportunity for staff members to meet with the Municipality; and
- (c)** the request, receipt and consideration of information from both sides.

7.1.6 The Municipality shall disclose all information on matters relevant to the consultation, if considered relevant to proposed dismissal or development of alternative proposals.

7.2 Criteria for selection

7.2.1 The Municipality shall develop fair and objective selection criteria through which dismissals would be carried out and consult with staff members on the contents and merits thereof.

7.2.2 The following criteria, for instance, shall be avoided:

- (a)** selection on the basis of union membership or activity; and

(b) pregnancy, or any other unfair discriminatory ground.

7.2.3 Criteria that are on the face of it neutral shall be carefully examined to ensure that when they are applied, they do not have discriminatory effect.

7.2.4 The Municipality shall endeavour to apply selection criteria that are generally accepted to be fair, such as those that include length of service, skills and qualifications, as well as meeting employment equity objectives.

7.2.5 Exceptions may also include the retention of staff members based on criteria mentioned above which are fundamental to the successful operation of the Municipality. These exceptions shall however be treated with caution.

7.3 Severance pay and alternative employment

7.3.1 Staff members that are to be dismissed for reasons based on the operational requirements shall be entitled to severance pay of at least one week's remuneration for each completed year of continuous service at the Municipality, plus any other additional pay agreed to during consultations in the Local Labour Forum.

7.3.2 A retrenched staff member shall be required to work out his/her contractual notice period or the Municipality may decide to pay the staff member in lieu of such notice.

7.3.3 A retrenched staff member shall be paid all outstanding and accrued leave due and owing up to the date of retrenchment.

7.3.4 Any other matters related to the status or entitlements of staff members during and up to eventual termination of service, for the staff members earmarked for dismissal, shall be decided during consultations. These matters shall cover, but are not limited to:

(a) Notice periods and conditions thereof.

(b) Counselling and other staff member wellness interventions.

(c) Financial literacy training, where required.

(d) Claims and / or lodgement of documentation to, e.g. Retirement Funds, UIF, Medical Schemes, insurers.

(e) Service certificates, etc.

7.3.5 If a staff member either accepted or unreasonably refused to accept an offer of alternative employment, the staff member's statutory right to severance pay shall be forfeited.

7.3.6 The Municipality shall determine reasonableness of the offer of alternative employment and the reasonableness of the staff member's refusal. In the first case, objective factors such as remuneration, status and job security are relevant. In the second case, the staff member's personal circumstances play a greater role.

7.4 Re-employment

Staff members dismissed for reasons based on operational requirements shall be given preference if the Municipality again recruits with intention to appoint staff members with comparable qualifications, subject to -

7.4.1 the staff member, after having been asked by the Municipality, and having expressed within a reasonable time from the date of dismissal a desire to be re-employed;

7.4.2 being within the time limit on preferential re-employment reasonably set during pre-dismissal consultations; and

7.4.3 the Municipality taking reasonable steps to inform the staff member, including notification to the staff member representative, of the offer of re-employment, if the above conditions are met.

7.5 Roles and responsibilities

7.5.1 The Municipal Manager or his / her delegated assignee(s) accept overall responsibility for the implementation and monitoring of the policy.

7.5.2 The financial implications related to implementing this policy shall be qualified and quantified by Human Resource Management in consultation with the Chief Financial Officer.

8. POLICY MONITORING AND EVALUATION

8.1 This policy shall be implemented and effective once recommended by the Local Labour Forum and approved by Council.

8.2 Non-compliance to the stipulations contained in this policy shall be regarded as breach of Code of Conduct, which shall be dealt with in terms of the Code of Conduct.

8.3 Head of Corporate Services shall carry out the monitoring and evaluation of the policy's implementation.


9. POLICY APPROVAL

This policy was formulated by HR Management in consultation with the Local Labour Forum.

Authorised by Municipal Manager:

Signature:  Date: 30/07/2024

**Recommended by Portfolio Committee
on Corporate Services:**

Signature:  Date: 30/07/2024

Approved by Municipal Council:

Signature:  Date: 30/07/2024