

Blouberg Municipality



CHAPTER 7: TERMINATION OF SERVICE POLICY

TERMINATION OF SERVICE

1. PREAMBLE

The Municipality views the termination of service as a necessary management tool on the one hand, and as an inevitable process of employment contract on the other hand. The Municipality would strive to apply termination of service in accordance with the circumstances of the employment contract, and the applicable legislation.

2. PURPOSE

- 2.1 To provide framework for all instances for termination of service within the Municipality.
- 2.2 To ensure that staff members' services are terminated appropriately and in line with the best practices and legislation within the Municipality.
- 2.3 To regulate the termination of services of staff members across the Municipality's offices, sections, operating areas in line with the applicable reasons for termination of service.

3. SCOPE OF APPLICATION

This policy applies 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 Structures Act, 1998 (Act No. 117 of 1998)

- Municipal Finance Management Act, 2003 (Act No. 56 of 2003)
- Labour Relations Act, 1995 (Act No. 66 of 1995)
- Employment Equity, 1998 (Act No. 55 of 1998)
- Skills Development Act, (Act No. 97 of 1998)
- Local Government: Regulations on appointment and conditions of employment of senior managers, 2014
- Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997)
- Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)
- Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993)
- South African Local Government Bargaining Council (SALGBC): 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 termination of contract of employment by staff members need to in terms of the applicable legislation or the terms of the contract

7. POLICY PROVISIONS

7.1 Voluntary Resignation

7.1.1 A staff member may resign from the service of Municipality with or without stating any reason.

7.1.2 A permanent staff member shall give at least thirty (30) days' written notice of resignation.

7.1.3 The Municipal Manager may approve other periods of notice of resignation in exceptional cases.

7.2 Termination by Mutual Agreement

7.2.1 A staff member's services may be terminated by mutual agreement between the staff member and the Municipality.

7.2.2 The staff member and the Municipal Manager may agree on the period of notice.

7.3 Termination on Completion of Project or Condition of Employment

7.3.1 A staff member's services may be terminated on completion of a project where the staff member was appointed as a temporary staff member in terms of the limited duration of the project and / or employment agreement, or in fulfilment of a written stipulation in the conditions of employment.

7.3.2 The notice period is not applicable in this instance.

7.4 Retirement at Normal Retirement Age

A staff member shall retire on pension at the end of the month in which the staff member reaches retirement age established by the Municipality on the basis of collective agreements.

7.5 Early Retirement

7.5.1 A staff member may retire earlier than normal retirement age in terms of the rules of the Retirement or Pension Fund of the Municipality.

7.5.2 The reasons could vary from medical fitness, to exercising of choice provided in the Fund rules.

7.5.3 Early retirement as a result of medical disability is subject to the terms and conditions of the relevant insurance policy or retirement fund applicable to the disability of the staff member.

7.6 Incapacity due to ill-health

7.6.1 A staff member's services may be terminated due to ill-health on their part.

7.6.2 The process shall be handled through the Municipality' policy on Incapacity due to ill-health.

7.7 Incapacity due to operational requirements

7.7.1 A staff member's services may be terminated as part of operational requirements of the Municipality, where such requirements could be based on the economic, technological, structural or similar needs of the Municipality.

7.7.2 The process shall be handled through the Municipality' policy on Incapacity due to operational requirements.

7.8 Incapacity due to poor performance

7.8.1 A staff member's services may be terminated due to the persistent poor performance on their part.

7.8.2 The process shall be handled through the Municipality' policy on Incapacity due to poor performance.

7.9 Termination due to misconduct

7.9.1 A staff member's services may be terminated as a result of being found guilty of misconduct in terms of the code of conduct and ethics.

7.9.2 The process shall be handled through the Municipality' policy on Discipline.

7.10 Staff member-initiated / voluntary severance package

A staff member may apply for a staff member-initiated or voluntary severance package when affected by transformation and restructuring. The application is subject to the approval of Council, on recommendation of the Municipal Manager.

7.10.1 Matters for considering the application

- (a)** In considering the application, the following shall, as a minimum, be taken into account:
 - (i)** The impact of the staff members' exit from the Municipality on its service delivery capabilities.
 - (ii)** The staff member's competence and suitability for continued employment.
 - (iii)** The manner in which the staff member's exit will support transformation and restructuring of the Municipality.
 - (iv)** The specific reasons for the staff member's request.
 - (v)** The ability of the Municipality to finance the costs related to the payment of the severance package (e.g. refunding Pension Fund, severance pay, leave pay, etc.).
 - (vi)** The impact of the granting of the severance package on the morale of other staff members.
 - (vii)** Whether the staff member occupies a post on the Municipality's establishment or whether the staff member is held additional to the establishment.
- (b)** If misconduct or incapacity due to poor performance proceedings are underway against the staff member, the decision regarding their

application shall be postponed until such proceedings have been finalised.

- (c) If the Council or Municipal Manager does not approve the application, the staff member shall, in writing, be informed that the application is not approved. The staff member shall also be provided with adequate reasons for the decision and be informed of any right of review.
- (d) If the Council or Municipal Manager approves the application, the staff member shall be notified in writing of the decision and their exit from the Municipality shall take effect not later than two months after the date of such notice.

7.10.2 Severance package payable

If the Council or Municipal Manager approves the staff member-initiated or voluntary severance package application, the following measures shall apply:

- (a) Retirement / Pension benefits: Staff member to be paid retirement benefits in line with the rules of the applicable Retirement or Pension Fund.
- (b) Severance pay: Staff member shall be paid severance package amount or through a formula agreed to in the SALGBC, and approved by Council.
- (c) Leave pay: Staff member shall be paid all unused vacation leave days accumulated in accordance with the leave policy. Leave shall be audited before any leave payments may be made to a staff member.
- (d) **Compensation for medical benefits**
 - (i) Staff members aged 55 and older on the date of service termination who have been members of the registered medical scheme for the year ending with service termination, and chose to continue to be members of a medical scheme, will qualify for continued employer contribution at the scale determined for active staff members.
 - (ii) Staff members who are younger than 55 at the date of service termination, and staff members who are 55 and older who are not members of registered medical scheme, shall be paid a once-off all-inclusive amount determined by the SAGBC. This amount is in lieu of medical benefits regardless of the staff member's participation in the benefit before service termination. These staff members shall not qualify for post-retirement medical assistance in future.

- (e) **Service bonus:** Staff member shall be paid a pro rata service bonus calculated on the basis of the service period of the staff member at the date of service termination.
- (f) **Contractual obligations:** Staff members are to be released from contractual obligations that require from them to remain in service. Payments to third parties and other Municipality debt shall be recovered from retirement benefits, if staff members do not make suitable arrangements to settle their debt.
- (g) **Official housing:** Where official Municipality housing was provided, staff members shall be given a SALGBC-determined notification to vacate official Municipality housing, unless a different period is specified in an individual contract of employment.
- (h) **Notice of termination of service:** The staff member's termination of service by the Municipality shall take effect within two months after the date of the notice of the approval of their application.
- (i) **Subsidised scheme:** Subsidised motor vehicles, where applicable, shall be dealt with in terms of the scheme rules, and where relevant, the travel and transport policy.
- (j) **Resettlement benefits:** Notwithstanding the provisions of the resettlement policy, the Municipality shall meet, at the request of the staff member who is 55 and older, reasonable costs of resettlement of the staff member and their immediate family to a place in South Africa where they were recruited from, or to their country of origin if they were recruited from abroad.

7.11 Actions by the Municipality on Termination of Service

Upon termination of service, the Municipality, through the HRM Unit, shall ensure the following are carried out:

7.11.1 Notice periods

- (a) Any period of notice may not run concurrently with any period of leave by the staff member.
- (b) No notice or payment in lieu of notice shall be required to be given or paid to a staff member whose services are terminated as a result of misconduct or as a result of the termination of a temporary employment agreement by natural expiry of time.

7.11.2 Payment of leave credit

Upon termination of service for any reason all leave due to a staff member shall be paid out to such staff member and all retirement funds due shall be paid out in terms of the rules of such Retirement Fund unless the monies have been ceded to the Municipality by the staff member, or the staff member has authorised the Municipality to make deductions from such monies.

7.11.3 Payment of all monies due to staff member

All monies due to a staff member after termination of service shall be paid to the staff member within three (3) months or as soon as possible after termination of service.

7.11.4 Recovery of debts from staff member

On termination of service any debt of a staff member to the Municipality shall be deducted from such staff member's remuneration or any monies owed to the staff member, if the staff member signed an acknowledgement of debt in terms of the Basic Conditions of Employment Act, or by order of the court.

7.11.5 Issue of Certificate of Service

A Certificate of Service shall be issued to staff members on termination of service on the conditions determined by the Council, on recommendations supported by the Local Labour Forum.

7.12 Roles and responsibilities

The Municipal Manager or his / her delegated assignee(s) accept overall responsibility for the implementation and monitoring of the policy. The financial implications related to implementing this policy shall be qualified and quantified by Human Resource Management Unit.

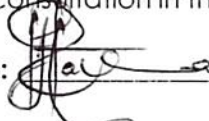
8. POLICY MONITORING AND EVALUATION

- 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 in the Local Labour Forum.

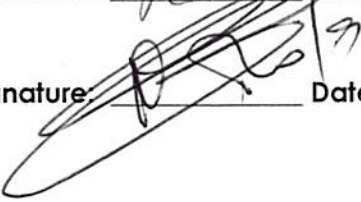
Authorised by Municipal Manager:

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