

Leave Policy

1. PURPOSE

This policy serves to guide management and staff regarding the application of the different leave types, as required by the South African Local Government Bargaining Council (SALGBC) Main Collective Agreement and Collective Agreement on Conditions of Service for the Limpopo Division as well as the Basic Conditions of Employment Act. This policy excludes Municipal Manager and Managers directly accountable to Municipal Manager.

2. DEFINITIONS

2.1 Words indicating the masculine gender shall include the feminine gender.

2.2 All references to days shall be working days.

3. APPROVED

4. POLICY

4.1 LEGAL FRAMEWORK

- Basic Conditions of Employment Act 75 of 1997 updated 2005 (BCEA)
- SALGBC Main Collective Agreement (1 April 2016)
- SALGBC Collective Agreement on Conditions of Service for the Western Cape Division (prevailing Agreement)

5. SCOPE AND APPLICATION

5.1 ANNUAL LEAVE

(24 Annual days – Cycle: January to December annually)

Annual leave will accumulate monthly immediately following an employee's commencement of employment. According to the Basic Conditions of Employment Act, leave does not apply to an employee who works less than 24 hours a month.

An employee must apply for annual leave and obtain approval from his supervisor, **prior** to the commencement of the annual leave by means of Council's leave record system or relevant application form. The supervisor may decline leave for operational reasons and inform employee accordingly. The notice period should equal the leave period, unless annual leave needs to be taken in case of emergency/operational reasons.

Annual leave is applied in accordance with the SALGBC Main Collective Agreement (Clause 3.1):

5.1.1 *"An employer shall grant an employee the following annual leave:*

5.1.1.1 Twenty-four (24) working days for a five- (5) day worker, provided that leave for an employee that works less than a 5 days week shall be calculated on a pro rata basis; and

5.1.1.2 Twenty-seven (27) days for a six- (6) day worker.

5.1.2 An employer must grant annual leave not later than six months after the end of the annual leave cycle.

5.1.3 An employee is required to take annual leave as follows:

5.1.3.1 A five- (5) day worker shall take a minimum of sixteen (16) days leave; and

5.1.3.2 A six- (6) day worker shall take a minimum of nineteen (19) days leave.

5.1.4 An employee must take annual leave not later than six months after the end of the annual leave cycle.

5.1.5 Annual leave shall only be accumulated to a maximum of forty-eight (48) working days.

5.1.6 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. 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 fall away.

5.1.7 With six months of the end of a leave cycle, an employee may not have more than 48 days annual leave to his credit.

5.1.8 In the event of the termination of service, an employee shall be paid his leave entitlement in terms of this agreement, calculated in terms of the relevant provisions of the Basic Conditions of Employment Act 75 of 1997, as amended."

Employees will have a grace period of six months after the end of the annual leave cycle to take their total of 16 days annual leave.

5.2 SICK LEAVE

(80 Sick Leave days – Three year Cycle on pro-rata basis)

An employee must notify his/her supervisor within the hours specified in the Collective Agreement (within three hours after he should have commenced duty) on the first day of being absent on sick leave and must notify the supervisor again if absence is going to be longer than only that day. Shift workers are required to report ill-health/absence within two hours before the start of the shift. The sick leave application accompanied by the medical certificate must be submitted the first day back at work if such absence exceeds two consecutive days. Sick leave is applied in accordance with the SALGBC Main Collective Agreement (Clause 8.2):

5.2.1 "With effect from the new sick leave cycle, an employer shall grant an employee eighty 80 days sick leave in a three (3) year leave cycle, provided that in respect of new appointments an employee may not take more than 30 days sick leave in the first year of employment.

5.2.2 The employee shall be required to submit a medical certificate from a registered medical practitioner or any other person who is certified to diagnose and treat patients and who is registered with a professions council established by an Act of Parliament, if more than two (2) consecutive days are taken as sick leave, provided that the employer may request a sick leave certificate for every day of sick leave where there is evidence of abuse of sick leave.

5.2.3 The employer is not required to pay an employee if an employee is absent on more than two 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 sickness or injury. The eight week cycle starts from the date when the sick leave occurs without a medical certificate and the second eight week cycle is calculated from the last sick leave without a medical certificate. The Basic Conditions of Employment Act, Section 23(2), confirms the following on Proof of incapacity:

"The medical certificate must be issued and signed by a medical practitioner or any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament."

5.3 MEDICAL PRACTITIONERS APPOINTMENTS DURING WORKING HOURS

The approval is granted for 2 hours time off when employees need to visit a doctor.

Employees are requested to schedule appointments after hours as far as possible. If one can't be accommodated after hours, a maximum of two hours time off is granted away from the work station. Should the appointment exceed two hours, it is required that the necessary sick leave be submitted with confirmation from the medical practitioner of the appointment during working hours.

5.4 ADMINISTRATIVE MEASURES FOR TAKING SICK LEAVE

(Collective Agreement of the Limpopo Division on Conditions of Service)

5.4.1 "If an employee to whom annual leave has been granted is certified sick by a registered medical 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 a registered medical practitioner.

5.4.2 If due to illness an employee is unable to take annual leave already deducted, he shall be credited with an equal number of days' annual leave.

5.4.3 An employee may not during any period of sick leave approved in terms of these conditions resume service without the written approval of a registered medical practitioner. If an employee reports for duty earlier than what is provided for on the sick

leave certificate, the employee must provide a letter from the medical practitioner proving fitness for work.

5.4.4 If an employee leave the workplace on sick leave within three hours after he has assumed his normal hours of work, the employee shall be granted paid sick leave for the day, provided that he completes a sick leave form in respect of that day, and subject to having sick leave to his credit.

5.4.5 An employee who is absent from service because of illness must take all reasonable steps to notify his immediate supervisor (or assignee) within three hours after he should have commenced duty.

5.4.6 Any employee to whom the maximum period of sick leave on full pay has been granted shall be granted sick leave without pay, subject to clause 14 of the Limpopo Conditions of Service Collective Agreement, provided that the employee is examined by a registered medical practitioner appointed by the Municipality. The cost of such examination shall be borne by the Municipality.

5.4.7 Medical certificates must be used by a registered medical or dental practitioner or a Traditional Healer registered with a recognized professional council in terms of legislation.

5.5 ADDITIONAL SICK LEAVE

Refer to:

((Collective Agreement of the Limpopo Division on Conditions of Service – Clause 13)

5.6 MATERNITY LEAVE

The Code of Good Practice on the Protection of Employees During Pregnancy and after the Birth of a Child, as contained in The Basic Conditions of Employment Act, encourage women employees to inform employers of their pregnancy as early as possible to ensure that the employer is able to identify and assess risks and take appropriate preventative measures.

Maternity leave is granted in accordance with the SALGBC Main Collective Agreement (Clause 3.3):

5.6.1 a) "An employee, including an employee adopting a child under three (3) months, shall be entitled to receive three (3) months paid maternity leave, with no limit to the number of confinements or adoptions. This leave provision shall also apply to an employee whose child is still-born.

b) Maternity leave may commence four (4) weeks before confinement.

c) To qualify for paid maternity leave, an employee must have one (1) year's continuous service with the employer." *The Basic Conditions of Employment Act, Section 25(2), confirms that:*

5.6.2 (2) "An employee may commence maternity leave-

- (a) at any time from four weeks before the expected date of birth, unless otherwise agreed; or
- (b) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.
- (3) Should the employee fall ill with any pregnancy-related illness within the 4 weeks prior to her confinement date that date will be regarded as the start of her maternity leave.
- (4) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- (5) An employee who miscarries before the third trimester will not qualify for maternity leave but the employee may utilise sick leave for the period as indicated by a medical practitioner.
- (6) An employee who has a miscarriage during the third trimester of pregnancy is entitled to maternity leave for six weeks after the miscarriage, whether or not the employee had commenced maternity leave at the time of the miscarriage.
- (7) An employee may request to interrupt her/his maternity leave if-
 - (a) the baby is born prematurely and is hospitalised during maternity leave; or
 - (b) the baby becomes ill and is hospitalised for a period longer than a month during the maternity leave period.
- (8) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to-
 - (a) commence maternity leave; and
 - (b) return to work after maternity leave.
- (9) Notification in terms of subsection (5) must be given-
 - (a) at least four weeks before the employee intends to commence maternity leave; or
 - (b) if it is not reasonably practicable to do so, as soon as is reasonably practicable."

The Basic Conditions of Employment Act, Section 26, explains the Protection of employees before and after birth of a child:

5.6.3 (1) "No employer may require or permit a pregnant employee or an employee who is nursing her child to perform work that is hazardous to her health or the health of her child.

(2) During an employee's pregnancy, and for a period of six months after the birth of her child, her employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if-

- (a) the employee is required to perform night work, as defined in section 17(1) or her work poses a danger to her health or safety or that of her child; and
- (b) it is practicable for the employer to do so."

The Code of Good Practice on the Protection of Employees During Pregnancy and after the Birth of a Child, as contained in The Basic Conditions of Employment Act, confirms that:

5.6.4 "Arrangements should be made for employees who are breastfeeding to have breaks of 30 minutes twice per day for breastfeeding or expressing milk each working day for the first six months of the child's life."

5.7 FAMILY RESPONSIBILITY LEAVE

(5 Family Responsibility Leave days – Cycle: January to December annually)

Family Responsibility leave is granted in accordance with the SALGBC Main Collective Agreement (Clause 3.4):

5.7.1 "Family responsibility leave applies to an employee who has been in employment with an employer for longer than four (4) months.

5.7.2 An employer, upon receipt of reasonable proof, shall grant an employee during each annual leave cycle at the request of an employee, a total of five (5) working days paid leave, which the employee is entitled to take, either when:

5.7.2.1 the employee's child is born;

5.7.2.2 the employee's child is sick;

5.7.2.3 the employee's spouse or life partner is sick;

5.7.2.4 in the event of death of:

a) the employee's spouse or life partner; or

b) the employee's parent, adoptive parent, parents-in-law, grandparent, child, adopted child, grandchild or sibling."

The Basic Conditions of Employment Act, Section 27(4), confirms that an employee may take family responsibility leave in respect of the whole or a part of a day. Section 27(5) confirms that reasonable proof of an event contemplated as for family responsibility leave may be required by the employer. The unused entitlement to family responsibility leave lapses at the end of the leave cycle in which it accrues according to Section 27(6).

5.8 STUDY LEAVE

(Collective Agreement of the Limpopo Division on Conditions of Service – Clause)

5.8.1 "Study leave shall be granted in accordance with Council policy. Where no policy exists by the Municipal Manager or his assignee which approval shall not be unreasonably refused.

5.8.2 Study leave shall be granted on the basis of two day paid special leave for each day that an employee writes an examination plus an equivalent amount of days for preparation, subject to clause 5.1.3.

When two subjects/modules are written on one day, study leave shall be granted on the basis of one day paid special leave per paper for the preparation for the examination.

5.8.3 For attending the graduation ceremony, time off with full pay for the day of the graduation and the day before the graduation, as applied with the special leave for examination purposes, is granted, subject to authorisation by the Municipal Manager, prior to the graduation taking place.

5.9 LEAVE OF ABSENCE FOR OBLIGATORY COURSE/STUDY

REQUIREMENTS

Collective Agreement of the Limpopo Division on Conditions of Service refers

5.10 TIME OFF TO ATTEND CLASSES

5.10.1 Employees participating in Council's Bursary Scheme, or who are registered with a recognised education institution to acquire a qualification as the Work Skills Plan as part of his/her personal development plan, may be granted time off for exposure (eg. Block releases) or to attend such classes during working hours, limited to the required notional hours as per accredited course.

5.10.2 Documentary proof in this regard must be used as proof that attendance, exposure or block releases are a prerequisite and critical for a qualification to be conferred. Such documentary proof must accompany the application for time off in this regard.

5.10.3 The granting of time off to attend these classes will result in a service obligation to Council.

5.10.4 Should an employee take time off to attend classes, but does not write the examination, the time off granted will be deducted from his/her annual leave entitlement or it will be captured as unpaid leave if he/she does not have annual leave to his/her credit. This requirement is not applicable when the employee was on sick leave on the date of the examination.

5.11 TO ATTEND A COURT OF LAW TO GIVE EVIDENCE ON BEING SUMMONED AS A WITNESS

Collective Agreement of the Limpopo Division on Conditions of Service Refers

5.11.1 "On receipt of a written subpoena, an employee who is summonsed to attend a Court of Law as a witness shall be granted paid special leave for the period of absence from duty, provided that any witness fee received, excluding a travel and subsistence allowance, shall be reimbursed or recovered from the employee whatever the case may be.

5.11.2 Any employee who is arrested and appears in court as a result of charges laid by his employer and who is later acquitted shall be granted paid leave for the period of incarceration."

5.12 SPORT PARTICIPATION

Collective Agreement of the Limpopo Division on Conditions of Service refers:

5.13 QUARANTINE AND ISOLATION UNDER MEDICAL INSTRUCTION

"Where a registered medical practitioner has placed an employee under quarantine/in isolation in terms of the Health Act, 1977 (Act 63 of 1977) or any regulations in force thereunder, such an employee shall be granted paid special leave, provided that the medical certificate issued details the period of absence and the reason therefore."

5.14 COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES

Collective Agreement of the Limpopo Division on Conditions of Service refers:

"An employee who sustains an injury or contracts an illness in the course of his official duties such as to entitle the employee to compensation in terms of the Compensation for Occupational Injuries and Diseases Act, 1993, shall be granted paid special leave for the period of incapacitation."

5.15 LEAVE WITHOUT PAY

Leave without pay as approved by the Municipal Manager or his assignee, which approval shall not be unreasonably withheld, shall be subject to the following conditions:

5.15.1 Leave without pay shall be granted only when all available vacation and/or sick leave has been exhausted.

5.15.2 For the period of leave without pay Council shall continue to make employer's contributions only to the employee's group life insurance scheme, pension and medical aid fund, provided that the employee also makes his contributions to the said funds, as well as any payment in terms of a collective agreement."

5.16 APPLICATION FOR SPECIAL LEAVE

5.16.1 "Exigencies of the service must be taken into consideration.

5.16.2 Supporting documents, where required, must be provided with the application.

5.16.3 Application for special leave, must be approved by the Municipal Manager or his assignee, shall be considered in a bona fide manner, and shall not be unreasonably refused.

5.16.4 Special leave shall not exceed 20 working days in a leave cycle – this limitation does not apply to quarantine and injury on duty situations and unpaid sick leave."

5.17 LONG SERVICE RECOGNITION

5.17.1 In addition to normal vacation leave, an employee shall qualify for the following additional leave as recognised for continuous long service at the same employer which shall be credited once only on the date on which the various periods of continuous service are completed. The long-service leave must be taken within one (1) year of receiving such leave or may be wholly or partially encashed.

After 10 years 10 working days

15 years 15 working days

20 years 20 working days
25 years 25 working days
30 years 30 working days
35 years 35 working days
40 years 40 working days
45 years 45 working days

5.18 TIME OFF FOR UNION ACTIVITIES

Time off for Union Activities is applied in accordance with the SALGBC Main Collective Agreement (Section 2, Organisational Rights Agreement):

5.18.1 Election of Shop Stewards

5.18.1.1 Once agreement has been reached on the delimitation and demarcation of constituencies, the trade union concerned shall be given access to the employer's premises to conduct shop steward elections.

5.18.1.2 Such access shall allow the trade union 3 (three) hours during working time, per constituency, to explain the role and duties of shop stewards, to receive nominations and to conduct elections.

The 3 (three) hours need not be continuous but shall be held prior to lunch breaks or knocking-off time.

5.18.2 Meetings and Facilities

5.18.2.1 The shop stewards shall be entitled to meet with members in their respective constituencies for a period of 2 (two) hours per month.

5.18.2.2 The shop stewards' committee shall be entitled to hold four (4) general meetings with members per year. Any such meeting shall be held during working hours for not more than 2 (two) hours during working time on a date to be approved by the employer, which approval shall not be unreasonably withheld.

The meeting shall take place either before lunch break or knockoff time. The shop stewards committee may request additional meetings/time and such request shall not be unreasonably refused.

5.18.2.3 A shop stewards' committee shall be entitled to meet for a period not exceeding 2 (two) hours per month during working time.

5.18.3 Time Off for Trade Union Activities and Training

5.18.3.1 Shop stewards shall be entitled to 15 (fifteen) days per year with full pay during working hours for trade union activities and training.

5.18.3.2 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 exceed.

5.18.3.3 Further requests or time off for shop stewards shall not be unreasonably refused.

5.8.3.4 The necessary leave forms must be submitted and approved by the Supervisor and Head of Department prior to taking time off for union leave.

6. ADMINISTRATIVE MEASURES FOR MANAGING AND CONTROL OF LEAVE

6.1 Each HOD/Supervisor is responsible and accountable to constantly monitor and review the leave of employees and to ensure that trends are noted early; leave credits are adequate and negative balances are not allowed; leave applications submitted timeously.

6.2 Each HOD/Supervisor is responsible and accountable that only officials who are authorized in terms of the delegated powers approve leave (as contained in the ESS (Employee Self Service) System. The delegated authority must determine whether the leave application submitted is accurate and correct before they authorize the leave application.

Municipality Manager

Blouberg Local Municipality

Signature: *Merheba*

Date: