

LEAVE POLICY

(Dated April 2018)

1. PREAMBLE

The policy is aimed at ensuring that all employees adhered to the application of all the types of leave applicable to them.

2. DEFINITIONS

All terminology used in this policy shall bear the same meaning as in the applicable legislation.

3. LEGAL FRAMEWORK

- Basic Conditions of Employment Act 77 of 1997
- Main Collective Agreement 2007- SALGBC

4. SCOPE AND APPLICATION

The policy shall apply to all employees of the employer.

5. OBJECTIVES OF POLICY

The Leave Policy refers to the terms and conditions for dealing with leave applications in the workplace.

6. POLICY CONTENT

The following measures are applicable on all employees inside Local Government except for Section 57 appointments. The uniformity Service Conditions is applicable to all employees that are in service of a municipality since 1 January 2006.

Annual Leave

All employees are entitled to twenty four (24) working days (5 day worker) and twenty seven (27) working days (6 day worker) annual leave in a leave cycle of twelve (12) months commencing from January.

A five (5) day worker is compelled to take sixteen (16) days annual leave in an eighteen (18) month period (till 30 June the following year) and a six day worker is compelled to take nineteen (19) days in an eighteen (18) month period (till 30 June the following year). Employees must take 16 work days compulsory leave per 12-month leave cycle and may accumulate the remainder of the 24 working days leave allocation up to a maximum of 48 working days, which means that at a rate of 8 days per annum (which is the maximum leave that can be accumulated per annum) this threshold will be reached after six years.

An employee has 18 months (12-month leave cycle plus 6 consecutive months) in which the 16 work days compulsory leave must be taken and the 8 days if the employee has already accumulated 48 days. However the last 6 months will automatically form part of the next 12-month leave cycle.

When an employee takes leave in respect of a specific leave cycle, the days of that cycle are taken first and the employee only begins to take accumulated leave when he or she takes more days than what is available in that leave cycle at that stage.

The settlement of leave take place as follows:

Permanent appointments:

If an employee commences service on the first day of a month, he or she will settle one (1) day for every eleven (11) days actually worked. Therefore an employee settles two days per month. If an employee starts working on the 15 of a month, he or she will only settle one (1) day for that specific month and two (2) days the following month.

If an employee left the services of the municipality on any time during a month and not at the end of the month the following measure applies:

Contract appointments:

If an employee be appointed on contract for a period shorter than one (1) month the same measure applies as for a permanent appointment namely for every seventeen (17) days actual worked, one (1) day's leave will be paid.

Employees will not settle leave for a month if they are on unpaid leave for the whole month and no pro rata bonus will be calculated.

With regards to Library Personnel that works half days on a Tuesday and Saturday, the following measure applies:

- The two (2) half days actual worked represents one (1) full working day.
- If an employee put in leave on a Tuesday, it will only count as four (4) hours leave and can the employee not be penalized for eight (8) hours.
- The supervisors involved must ensure that the leave that has been sent to the personnel office is correctly calculated. If a half day appears on the leave form, it will be registered as one (1) full day. No registration of half days or hours can take place on the PROMUN leave system.

At the end of a leave cycle an employee may not have more than 48 days accumulated leave. This is when the maximum of eight days from the previous leave cycle that can be accumulated will be transferred to the accumulated leave. The Employer must then inform employees with more than 48 days accumulated leave that they must take all 24 days leave within six months of the end of the leave cycle or will forfeit the non-compulsory leave (eight days) at the end of six months after the end of the annual leave cycle.

Sick Leave

An employer shall grant an employee eighty (80) working 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. The sick leave cycle of every employee starts on the day that he or she assumed duty at Langeberg Municipality. Employees who have not taken more than 20 days sick leave at the end of a three year cycle shall receive an additional ten (10) working days sick leave to which they will be entitled in the ensuing cycle, provided that in respect of any sick leave no employee shall become entitled to more than 120 working days sick leave on full pay in a sick leave cycle.

According to the new Service Conditions, no sick leave can be carry over from previous cycles.

Sick leave can only be taken where an employee is unable to proceed with his/her duties due to sickness or injury.

The employer will require a sick certificate from a registered medical practitioner if the employee is on sick leave for more than two (2) consecutive days.

If a medical certificate is issued by a nurse, the following measures must apply namely:

- The guideline should be that if a person/nurse is registered with the relevant Councils and they have the extra qualifications, viz Primary Health Care qualifications, then a Municipality may accept such a medical certificate, which would only be valid for two days;
- When an employee received a medical certificate issued by a nurse, and that employee was still ill on the third day, such an employee should go to a medical practitioner, who would only be allowed to issue a medical certificate from the third day onwards.
- The following medical professions are registered with the Health Professions Council of South Africa (HPCSA):

Health Assistants
Clinical Assistants
Biomedical Engineers
Anaesthetist's Assistants
Clinical Biochemists
Medical Practitioners

If the employee provides a sick certificate and the employee was not booked off, it will not be accepted as sick leave.

The employer has the right to reject a medical certificate, but only on acceptable medical grounds or other reasons. When an employer suspects that a medical certificate is doubtful, the diagnosis is doubtful, suspect that the employee was not sick, the length of sick leave period or if fiddling with the sick certificate took place, the employer could expect from the employee to go for a second opinion to a medical practitioner of the employer's choice. The employer will pay for the medical costs. The employee, however, must agree to go for a second opinion. If the employee does not agree to go for a second opinion, the sick leave will not be approved and registered as unpaid annual leave.

Therefore, the employer can at any time request for a medical certificate, if the employer suspects that there is a tendency of sick leave taken place.

The employer is also not obliged to pay an employee, if the employee is sick on more than two (2) occasions in an eight (8) week period and on request by the employer cannot provide a sick certificate.

The eight week period starts the first day every time when an employee takes sick leave. There is no specific number of days that constitute an occasion. An occasion can constitute any consecutive number of sick leave days taken. When the employee's sick leave is exhausted, no paid sick leave can be offered. The employee, then has the option of unpaid leave, but if the employee is on sick leave for a very long period, the services can be terminated on grounds of medical disability after all the processes have been concluded.

Sick leave cannot be taken for dentist- or doctor appointments. The employee will apply for annual leave in such instances. This also includes monthly check up appointments for pregnant women. If the employee after he or she was for their appointment gets booked off, he or she can apply for sick leave after providing a sick certificate. Then the annual leave will be cancelled for the specific period and sick leave will be registered.

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 registered medical practitioner.

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 any 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 providing fitness for work.

If an employee leaves 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.

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 commenced duty.

Maternity Leave

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. Maternity leave is calculated as follows: Three months, e.g. from 1 January to 31 March or 25 January to 24 April on paid leave.

To be considered for paid maternity leave, an employee must be in service with the employer for one (1) year.

An employee's maternity leave can commence at any time from four (4) weeks before the expected date of birth, unless the parties agreed otherwise. If the employee wants to move on the date, she must apply to Council and has to provide the following information:

- A Doctor's letter confirming that the moving on of the date will not influence the employee or the employee's unborn baby in a negative way.
- Indemnity form, signed by the employee, to confirm that the employee will not hold the employer accountable for any possible after effects that can take place if the date been change.

No employee may work for six (6) weeks after the birth of her child, unless a medical practitioner or midwife certifies that the employee is fit to do so.

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 commence maternity leave, also give an indication of the expected date of birth. She must also give an indication of the date that she expected to return to work.

It will be expected from the employee to work back the three (3) months paid maternity leave. If the employee refuses to do so, the remuneration that was paid to the employee during the three (3) months paid maternity leave, will be recouped.

During the month that the employee is on unpaid maternity leave, no settlement of annual leave for that month takes place. The employee can also claim back benefits from the Unemployment Insurance Fund for the period that she is on unpaid maternity leave. If the employee receives a housing subsidy, Clause 4.10 of the Housing Subsidy Scheme determines that the payment of subsidy by the employer will proceed during the period of absence, with or without pay. The employee is entitled to the full amount of subsidy. The employee must however provide proof that she paid the installment during the months that she was on unpaid maternity leave.

Family Responsibility Leave

Family responsibility leave is applicable to employees who have been in employment with an employer for longer than four (4) months.

The employer will grant five (5) days family responsibility leave on 1 January of every year, depending if the employee is in service for longer than four (4) months. The five (5) days is not five (5) days per occasion, but only five (5) days per annum.

If an employee starts in the middle of a year, for example in June, the employee will receive four (4) days on 1 October. At the end of December of that specific year, the family responsibility leave expires. The employee will receive five (5) days on 1 January of the following year.

Family responsibility leave cannot accumulate and be carried over to the following year.

Family responsibility leave cannot be encashed.

Family responsibility leave can be taken in the following instances:

- When the employee's child is born;
- When the employee's child is sick;
- When the employee's spouse or life partner is sick;
- In the event of death of the employee's spouse or life partner, the employee's parent, adoptive parent, parents-in-law, grandparent, child, adopted child, grandchild or sibling (brother or sister).

A child is classified as 18 years and younger. No family responsibility leave will be given in cases where the children are older than 18 years except for the death of the child.

Employees cannot take family responsibility leave for children who are in their care. The child must be legally adopted.

When an employee applies for family responsibility leave, a doctor's certificate or death certificate must be provided. Where it happens that the surname on the death certificate or sick certificate differs from that of the employee, an affidavit must be supplied with the necessary reasons.

Family responsibility leave will not be approved in the following circumstances:

- Sickness / Doctor appointment of the following persons: foster-child, parent, adoptive parent, grandparents, grandchild, brother or sisters.
- Death of foster child, uncles, aunts, neighbours, sister & brother in laws, ex husband and wife.

In the event of death of a brother or sister from a first or second marriage the leave will only be granted if they are blood relative for example half brother or sister.

Family responsibility leave will not be granted to an employee whom provides the municipality with a slip from a pharmacy for medication for a child, spouse or life partner.

Family responsibility leave will not be granted to an employee, if he or she visits a parent, grandparent or child in hospital. It will only happen if the mentioned persons are sick.

If the employee is a grandparent and wants to take his or her grandchild to the doctor, no family responsibility leave will be granted.

Contract employees also qualify for family responsibility leave, if they at least work for four (4) days per week and for more than four (4) months continuously.

If an employee's child, spouse or life partner is sick and been treated by a Traditional Healer, family responsibility leave can be granted if the Healer is registered at the South African Health Board and a sick certificate was provided after the employee was treated.

If an employee's child goes for a follow-up appointment, and the child is not sick, family responsibility leave cannot be granted. Annual leave will be granted for this purpose.

The Director Corporate Services approves/ not approves Family Responsibility leave.

Special Leave

Study Leave

Study leave shall be granted on the basis of one day paid special leave for each day that an employee writes an examination plus an equivalent amount of days for preparation for the examination. When two subjects/ modules are written on one day, study leave shall be granted on the basis of one day paid special leave for the day of the examination plus an equivalent amount of days for preparation per subject/module for preparation for that examination.

When an employee is required to write only one examination on one day in a calendar year, he shall be entitled to three days special paid leave which include the day of the examination. The said leave must be approved in advance by the Municipal Manager or his assignee and the request for leave must be accompanied by the examination roster or sufficient proof of the examination being written.

Leave of absence for obligatory course/ study requirements

The fields of study must be approved in advance in accordance with Council policy and must be accordance with the requirements of the curriculum of the approved course.

An employee attending a training or study course subject to Council policy shall be granted up to ten (10) days and thereafter one (10) days special leave for every day's leave taken by the employee.

Leave shall be granted for a maximum of twice per subject/ module to allow for supplementary examinations

This does not apply to compulsory training initiated by the employer. An employee attending compulsory training initiated by the employer shall be granted paid special leave for the full duration of the obligatory attendance requirements.

Attend a court of law to give evidence on being summonsed as a witness

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.

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.

Sports participation

An employee who is elected by a recognized sports association, which sports association must be recognized by the South African Sports Confederation and Olympic Committee (SASCOC), to

- Represent South Africa or the Province as participant in SASCOC recognized international or national sports competitions inside as well as outside the Republic of South Africa;

- Accompany teams that will represent South Africa at SACCOC recognized international sports competitions inside as well as outside the Republic of South Africa as coach or manager;
- Officiate at SASCOC recognized international sporting event; where the employee represents South Africa and a National South African sports team participate;

shall be granted paid special leave for the duration of the event for these purposes.

No leave will be granted for practices.

Quarantine and isolation under medical instructions

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

Compensation for occupational injuries and diseases

An employee who sustains an injury or contract 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.

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:

- Leave without pay shall be granted only when all available annual and/ or sick leave has been exhausted;
- 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 funds, as well as any payment in terms of a collective agreement.

Application for special leave

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

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.

Special leave shall not exceed 20 working days in a leave cycle. This limitation does not apply to Compensation for occupational injuries and diseases, and Quarantine and isolation under medical instructions, but includes attending a court of law as witness and sports participation.

Standard Operating Procedures to be followed by line departments and HR

All Managers/Secretaries and delegates have access to the "view option" of the leave system of PROMUN.

As soon as the Manager/Secretaries receives the leave form, he or she will verify on the PROMUN system if the employee has enough leave to his/her credit, before a recommendation can be made. The secretary must check the leave form for correctness as follows:

- Does the dates correlate with the total amount of days on the leave form?
- Does the employee has enough leave to take?
- Is the leave form signed by the employee?

Secretaries must ensure that before a leave form is sent to the HR offices, that all the above is correct and that the Manager has approved the leave form.

In the case of Family Responsibility leave and Special leave, the Manager only makes a recommendation and approval is with the Director Corporate Services.

The personnel officer is responsible for the following tasks regarding the processing of leave forms:

- Ensure that the employee has enough leave to its credit before processing take place.
- Ensure that the Director/Manager approved/not approved the leave.
- Ensure that the leave been processed within five (5) working days after receive thereof.
- Ensure that they signed for leave forms from the different departments.
- Ensure that where leave forms are incorrect, that they send it back to the secretary, by scanning it and mail.
- Because of the fact that the secretaries have a view option, they must inform the members in their sections of the approval / non approval.
- The line departments must also keep record of leave form that has been send to the HR Office.

If employee's leave not been approved, it will be registered as unpaid leave after confirmation has been received from the Director/Manager.

The HR Officer must ensure that employees that have been appointed on contract basis will only be registered on PROMUN, when they are in service for longer than three (3) months.

Processing of all leave for Fire Services Personnel

The following principles will be followed with the processing of leave of Fire Services Personnel:

- The employee must come back on his "on day" and not an "off day"
- If an employee takes leave, one day leave on a Saturday or Sunday that he/she was supposed to be "on duty" the one day will count.
- Although the employees work 24 hours shift, it is not counted as three (3) days, but one (1) day, if the employee takes leave.

Encashment of Leave

The encashment of leave according to the collective agreement on Service Conditions with effect from 1 January 2004 can only be paid out, because of operational reasons. It also means that only the leave that the person has more than forty eight (48) days can be paid out. The Managers however will have to provide the personnel office with the necessary proof that the encashment of leave was because of operational requirements.

The Municipal Manager or his delegate can however approve the encashment of leave for any other circumstances that he feels comfortable. If the encashment of leave gets approved, the personnel office must ensure that the total of leave that is encashed be deducted and corrected on the PROMUN system.

The encashment of leave is only for permanent employees and fixed term employees. After you have encashed leave, you must have at least five (5) days to your credit. You are also allowed to only buy back leave once per financial year (June till July). Only the Municipal Manager can give approval for more than once in a financial year.

7. IMPLEMENTATION AND MONITORING

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

8. COMMUNICATION

This policy will be communicated to all Municipal employees using the full range of communication methods available to the municipality.

9. POLICY REVIEW

This policy will be reviewed and revised when feel necessary.

10. BUDGET AND RESOURCES

The Financial and resource implication/s related to the implementation of this policy should be qualified and quantified.

11. ROLES AND RESPONSIBILITIES

The Municipal Manager or his/her delegate assignee accepts overall responsibility for the implementation and monitoring of the policy.

12. PENALTIES

Non-compliance to any of the stipulations contained in this policy will be regarded as misconduct, which will be dealt with in terms of the Disciplinary Code.

13. DISPUTE RESOLUTION

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

Signed at on this day of

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MUNICIPAL MANAGER