

**AGENDA of the
Portfolio Committee : Management Services
8 June 2023
(Also the agenda for the Mayoral Committee Meeting : 12 June 2023)**

**3.
REVISED LEAVE POLICY**

**L Bucchianeri
9 May 2023**

Senior Manager: Human Resources

(028) 313 8120

1. Executive Summary

The purpose of this policy is to regulate leave matters of employees of the Overstrand Municipality.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate : Management Services
Department : Human Resources

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Provision and maintenance of municipal services
Creation and maintenance of a safe and healthy environment

4. Delegated Authority

None

5. Legal Requirements

Labour Relations Act, 1995 (Act 66 of 1995) as amended from time to time;
Basic Conditions of Employment Act, 1997 (Act 75 of 1997) as amended from time to time;
Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended from time to time;
Ministerial Determinations;
All Collective Agreements, as amended from time to time, concluded in the South African Local Government Bargaining Council [SALGBC];
Delegation of Powers and Duties Policy.
Municipality's Unauthorised Absence Policy

6. Background/Discussion/Evaluation/Conclusion

Background

The purpose of this policy is to ensure that all staff members understand and are informed of the leave policy of the Municipality.

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7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

This item served before the LLF on 11 April 2023, comments were reviewed.

10. Annexures

Annexure A: Leave Policy

RECOMMENDATION TO THE COUNCIL:

that the Draft Leave Policy **be approved.**

RESPONSIBLE OFFICIAL :

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION :

JUNE 2023



OVERSTRAND MUNICIPALITY

LEAVE POLICY

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

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1. INTRODUCTION

The purpose of this policy is to regulate leave matters of employees of the Municipality of Overstrand.

The legislation and agreements referred to in paragraph 3 deal with the following leave:

- 1.1 Annual Leave
- 1.2 Sick Leave
- 1.3 Maternity Leave
- 1.4 Family Responsibility Leave
- 1.5 Shop steward leave
- 1.6 Special leave -which constitutes:
 - 1.6.1 Study leave
 - 1.6.2 Leave of absence for obligatory course/study requirements
 - 1.6.3 Leave to attend a court of law to give evidence on being summonsed as a witness.
 - 1.6.4 Sport participation
 - 1.6.5 Quarantine and isolation under medical instructions
 - 1.6.6 Occupational injuries and diseases ▪ Leave without pay.

Matters regarding time off in lieu of overtime is addressed in this policy.

To regulate the leave matters of employees, the provisions set out hereunder shall apply.

2. DEFINITIONS

- 2.1 "Sick Leave" means, leave taken by an employee due to the employee's incapability to perform his/her duties because of illness or injury.
- 2.2 "Unauthorised Leave" means, leave that has been taken without the approval of the employer.
- 2.3 "Unpaid Leave" means, leave taken with the approval by the employer which is unpaid.

3. LEGISLATIVE FRAMEWORK

- 3.1 Labour Relations Act, 1995 (Act 66 of 1995) as amended from time to time;
- 3.2 Basic Conditions of Employment Act, 1997 (Act 75 of 1997) as amended from time to time;

- 3.3 Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended from time to time;
- 3.4 Ministerial Determinations;
- 3.5 All Collective Agreements, as amended from time to time, concluded in the South African Local Government Bargaining Council [SALGBC];
- 3.6 Delegation of Powers and Duties Policy.
- 3.7 Municipality's Unauthorised Absence Policy.
- **[Employment Contracts in terms of Proclamation R.805 dated 1 August 2006, as amended from time to time, of the Municipal Manager and Directors directly accountable to the Municipal Manager;]**

4. LEAVE REGISTER

- 4.1 All leave of absence due, granted and taken shall be recorded in a leave register (electronic format or manual) and such leave register shall be under the control of the Senior Manager: Human Resources.
- 4.2 An employee's leave record shall be available for inspection by the employee and/or his/her supervisor/manager/director at all reasonable times during office hours.

5. LEAVE SUBJECTED TO THE REQUIREMENTS OF SERVICE

- 5.1 Notwithstanding the provisions of any law, leave of absence other than sick leave shall be granted with due consideration to the requirements of the Municipality's services.

6. GRANTING AND CANCELLATION OF LEAVE OF ABSENCE

- 6.1 Leave of absence shall be subject to the Municipality's approval in terms of its Delegation of Powers and Duties Policy.
- 6.2 Application for leave of absence shall be made by an employee in a form and/or manner as prescribed by the Municipal Manager or his/her delegatee.
- 6.3 Notwithstanding the provisions of any law, SALGBC agreement or policy of the Municipality, the Municipality may at any time cancel, postpone or interrupt leave of absence, other than sick leave, which has been granted to an employee should it be deemed necessary in the Municipality's interest to do so, and such an employee shall be compensated by the Municipality for irrecoverable expenses or commitments incurred by him/her before he/she had been notified of the cancellation, postponement or interruption.

- 6.4 Should an employee whose leave of absence is interrupted travel in order to resume duty, the Municipality shall pay his/her expenses for the forward and return journey and he/she shall be regarded as being on duty while travelling.
- 6.5 Cancellation, postponement or interruption of annual leave shall be confirmed in writing.
- 6.6 Should the Municipality refuse an employee's application annual leave, or cancel, postpone or interrupt such leave, the reasons for such action shall be noted in the leave register and the employee shall be credited with such leave over and above the maximum determined in terms of the provisions of any law, SALGBC agreement or policy of the Municipality and be permitted to take it within 12 (Twelve) months after refusal, cancellation, postponement or interruption.
- 6.7 An employee shall not go off duty or absent him-/herself from duty without prior permission unless he/she is prevailed by sudden illness or owing to other circumstances acceptable to the Municipality from remaining on duty or reporting for duty.
- 6.8 Except in the case of sick leave, the period from the date on which an application for leave is received until the date on which the leave begins shall not be shorter than the period of leave applied for, provided that a shorter period may under exceptional circumstances be allowed by the Municipal Manager or relevant Director/Manager.
- 6.9 The utilization of annual leave shall be subjected to a time which is mutually convenient to the Employee and Employer. The Employee must apply well in advance for the approval of annual leave.
- 6.10 An employee is only entitled to take annual leave and family responsibility leave in respect of the whole or a part of a day, but needs to be taken in full within three (3) months.

7. UNAUTHORISED ABSENTS FROM DUTY

- 7.1 Unauthorised absence from duty shall, without prejudice to the rights of the employer about disciplinary measures against an employee, be deemed to be special leave without payment (unauthorised leave), unless the Municipality decides otherwise in the event of employee submitting proof of absence.

8. TERMINATION OF PERMANENT SERVICE AND RE-EMPLOYMENT

- 8.1 If a permanent employee whose service is terminated for any reason whatsoever is re-employed, such re-employment shall for leave purposes be regarded as a new appointment.

9. LEAVE OF ABSENCE GRANTED IN EXCESS

- 9.1 When more paid leave of absence than his/her due has been granted to an employee inadvertently but in good faith, and been taken by him/her, the leave granted in excess may be deducted from leave which may accrue to him/her, or the value thereof may be claimed from him/her.

10. SICK LEAVE

- 10.1. Sick leave shall be granted to an employee only in respect of the absence from duty owing to an illness or injury.
- 10.2 Sick leave shall not be granted to employees whose ill health has been caused by illegal activities.
- 10.3 Sick leave can only be taken in respect of a whole day and not as part of a day.
- 10.4 If an employee to whom vacation leave has been granted is certified sick by a registered medical practitioner or dental practitioner due to illness after his/her vacation leave has commenced, that part of his vacation 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.
- 10.5 If, due to illness, an employee is unable to take vacation leave as provided for in any law, SALGBC agreement or policy of the Municipality, or if his vacation leave is converted into sick leave in terms of paragraph 11.2, he/she shall be credited with the vacation leave which otherwise would have been deducted from his/her leave credit over and above the maximum provided for in any law, SALGBC agreement or policy of the Municipality and shall be allowed to take the same within 12 (twelve) months of such conversion.

11. ADDITIONAL SICK LEAVE

- 11.1 If the maximum period of sick leave to which an employee is entitled has been granted to him/her and, owing to reasons of ill health, he/she is not able to resume duty, the Municipal Manager may –

- 11.1.1 on submission of a satisfactory certificate from a registered medical practitioner or dentist; and
- 11.1.2. If he/she is satisfied that the employee is at that moment not permanently incapacitated to resume his/her normal duties or
- 11.1.3. The employee is permanently incapacitated but is awaiting the finalization of his/her incapacity; and;
- 11.1.4. If the employee has no annual leave to his/her credit, grant to such employee further sick leave

[9.1.4. if the employee has no vacation leave to his/her credit, grant to such employee further sick leave

9.1.4.1. on full pay for no more than 30 (thirty) working days;

9.1.4.2. on half pay for no more than an additional 30 (thirty) working days; and

9.1.4.3. without pay for not more than a further 30 (thirty) days. Such grant may be made in respect of separate periods of absence and in respect of indispositions of different kinds.]

11.1.4.1 On full pay for no more than 20 (twenty) working days;

11.1.4.2 Without pay for not more than 20 (twenty) working days.

12. GRANTING OF SICK LEAVE: EXAMINATION BY A REGISTERED MEDICAL PRACTITIONER OR DENTIST

12.1 The Municipality may at any time require an employee to submit him /herself to an examination by a registered medical practitioner or dentist appointed by the Municipality, and the cost of such examination shall be borne by the Municipality.

12.2 The Municipality may, on the recommendation of a registered medical practitioner or dentist, compel an employee who, in the Municipal Manager's opinion, is so indisposed that he/she cannot perform his/her duties properly, to take sick leave.

13. INJURY ON DUTY

13.1. An employee who is absent from duty owing to an injury arising out of his/her duties and occurring in the course thereof or owing to an illness contracted during and because of his/her duties, shall be granted special sick leave on full pay for the period during which he/she is unfit to perform his/her usual duties.

- 13.2. If an employee to whom special sick leave has been granted in terms of paragraph 13.1 is unable as a result thereof to take vacation leave, he shall be credited with the vacation leave which would otherwise have been deducted from his leave credit, over and above the maximum provided for in any law, SALGBC agreement or policy of the Municipality and be allowed to take it within 12 months after resumption of duty.
- 13.3. Special sick leave in terms of paragraph 13.1 shall not be granted if the Municipal Manager is of the opinion that the injury or illness is due to gross and willful misconduct of the employee.

14. RESUMPTION OF DUTY BEFORE LEAVE HAS EXPIRED

- 14.1 Except with the Municipality's approval in terms of delegated authority, an employee shall not resume duties before the leave granted to him/her has expired.

15. SPECIAL LEAVE FOR OFFICIAL PURPOSES

- 15.1 Special leave shall be granted to officials, for official purposes, attend congresses, conferences, seminars, and other meetings.

16. LEAVE FOR PURPOSES OF TIME OFF IN LIEU OF OVERTIME

- 16.1 Leave for purposes of time off in lieu of overtime may be granted where an employee worked overtime without any compensation, provided that such overtime is authorised in terms of the Delegation of Powers and Duties Policy and in accordance with the Collective Agreement on Conditions of Service for The Western Cape Division of the SALGBC.
- 16.2 Overtime worked as provided for in paragraph 16.1 shall be captured on an overtime schedule, specifying the date, hours of overtime worked and **[hours taken]** reason/s to perform overtime duties, which schedule must be signed by the employee and his/her manager/director.
- 16.3 Applications for leave for purposes of time off in lieu of overtime shall be submitted as provided for in paragraph 6.2. Such applications must be accompanied by the schedule referred to in paragraph 16.2.
- 16.4 Leave in lieu of overtime cannot be encashed and shall be forfeited if not taken within 1 month of the employee becoming entitled to it: Provided that, for operational reasons, the Municipal Manager may extend the 1 (one) month aforesaid to a maximum of twelve months.

17. SUBMISSION OF PROOF

The following leave types require proof when applied for:

- 17.1 Conference Leave
- 17.2 Court Leave
- 17.3 Course Leave
- 17.4 Family Responsibility Leave
- 17.5 IOD
- 17.6 Maternity Leave
- 17.7 Meeting Leave
- 17.8 Quarantine
- 17.9 Shop Steward Leave
- 17.10 Sick Leave with a doctor's certificate
- 17.11 Sport
- 17.12 Study Leave

Proof must always accompany these leave application types. Dates of the leave application must correspond with the dates on the supporting documents.

Policy Section:	Human Resources
Current Update:	
Previous Review:	
Approval by Council:	25 August 2010