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# LEAVE POLICY

2017/18

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Approved by Council on the 29<sup>th</sup> May 2017

## **POLOKWANE MUNICIPALITY LEAVE POLICY**

### **1. PURPOSE**

The purpose of the policy is to regulate leave matters of employees of the Municipality of Polokwane (the Municipality).

### **2. OBJECTIVES OF THE POLICY:**

To ensure that employees know their entitlement with regard to the allocation of leave, the responsibility to apply for leave in the prescribed manner(s) and for good governance of leave in Polokwane Municipality.

### **3. SCOPE OF THE POLICY:**

This Leave Policy will apply to all Employees regulated under the South African Local Government Bargaining Council.

Leave for the Municipal Manager and Managers reporting directly to the Municipal Manager as contemplated in terms of Section 56 and 57 of the Local Government: Municipal Systems Act, 2000 (Act32 of 2000) as amended shall be regulated by Government Gazette No 37245 - Local Government: Municipal Systems Act, 2000 (Act32 of 2000): Local Government: regulations on Appointment and conditions of employment of Senior Managers.

### **4. DEFINITIONS:**

<b>“Annual leave cycle”</b>	means the period of twelve (12) month’s employment with the same employer immediately following an employee’s commencement of employment or following the completion of that employee’s existing leave cycle.
<b>“BCEA”</b>	Basic Conditions of Employment Act, 1997 (Act 75 of 1997) as amended from time to time.
<b>“Calendar Year”</b>	starts on 1 <sup>st</sup> January and ends on 31 <sup>st</sup> December annually.
<b>“Employee”</b>	any person, who works for Polokwane Municipality and who receives any remuneration and any other person who in any manner assists in carrying on or conducting the business of the employer excluding an independent contractor.
<b>“Employer”</b>	refers to Polokwane Municipality
<b>“Leave”</b>	is considered as time off / away from the workplace where the employee is not able to avail him/herself to executing duties and tasks as normally done by the employee.

<b>“Leave year”</b>	refers to a period of continuous service of 12 months and such leave year normally should start on the date of the appointment of the employee. (See also elaboration on “year of service” further down.)
<b>“Medical practitioner”</b>	means a medical practitioner, dentist or traditional healer registered in terms of legislation.
<b>“Year of service”</b>	is the period of 12 months’ continuous service from the date of appointment to the next date of appointment, and this date may be extended with any periods of absence of 20 working days or longer in any leave year.
<b>“SALGBC”</b>	means the South African Local Government Bargaining Council;
<b>“Special leave”</b>	means leave in addition to normal leave
<b>“the Municipality”</b>	refers to Polokwane Municipality
<b>“Working day”</b>	means any day on which an employee is normally required to work according to the service requirement applicable to the employee’s post and as agreed to in the SALGBC

## **5. LEGISLATIVE FRAMEWORK**

The obligation on an Employer to grant leave is regulated by, amongst others:

- 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:
  - Chapter Three (3) (Sections 19 – 27) of the Basic Conditions of Employment Act, Act 75 of 1997 (as amended) [Where the BCEA is considered a minimum act, and collective agreements can resolve on matters that are more favorable than the BCEA, but never less favorable than the BCEA.]
- Local Government: Municipal Systems Act, 2000 (Act32 of 2000) as amended from time to time
- National and Divisional Collective Agreements, as amended from time to time, concluded in the South African Local Government Bargaining Council (SALGBC)
- Employment Contracts in terms of Proclamation R.805 dated 01 August 2006, as amended from time to time, of the Municipal Manager and Directors directly accountable to the Municipal Manager
- Municipality’s System of Delegations, as amended from time to time
- Any other legislation that directly or by implication regulates leave.

## **6. TYPES OF LEAVE COVERED BY THE LEAVE POLICY:**

The Leave Policy will regulate:

- Annual Leave
- Sick Leave
- Maternity and Adoption Leave
- Family Responsibility Leave
- Special Leave for Study purposes
- Special Leave for adhoc instances
- Leave for purposes of time off in lieu of overtime
- Additional leave for Long Service Recognition
- Unpaid Leave

The Leave Policy does *not* regulate:

- Time off / leave to attend to Organisational Rights Matters
- Time off / leave to attend to Seminars / Conferences / Meetings or similar matters.

## **7. PRINCIPLES:**

### **7.1. Granting and Cancellation of Leave of Absence:**

- 7.1.1. Leave of absence shall be subjected to the Municipality's approval in terms of its Systems of Delegation.
- 7.1.2. The BCEA (s20) (2) rules that an employer "must grant an employee at least 21 consecutive days' annual leave on full remuneration in respect of each leave cycle." It is therefore a right to each employee to be allocated leave. However, there are more forms of leave than only annual leave, and collective agreements and other policies will regulate additional forms of leave. The amount of leave granted in the municipal sphere is also more than what the act prescribes and can include (but is not limited to) types of leave as mentioned above; it also includes Additional Sick Leave for Long Service Recognition Leave.
- 7.1.3. 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.
- 7.1.4. 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 be regarded as being on duty while travelling.

- 7.1.5. Cancellation, postponement or interruption of leave of absence shall be confirmed in writing.
- 7.1.6. Should the Municipality refuse an employee's application for leave of absence, or cancel, postpone or interrupt such leave register and the employee shall be credited with such leave over and above the maximum determined in terms of the provision 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.
- 7.1.7. 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.
- 7.1.8. 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.
- 7.1.9. When an employee applies for any form of special leave, the employee must attach documentary proof for the reason that the leave is applied for.
- 7.1.10. All types of leave which require supporting documentation will be converted to annual leave and/or unpaid leave in instances where such proof is not timeously submitted by an employee.

## **7.2. Granting of other types of leave as per Chapter Three of the BCEA:**

- Sick Leave (s22)
- Maternity Leave (s25)
- Family Responsibility Leave (s27)

## **7.3. Leave Registers:**

- 7.3.1. Leave is a liability for Municipalities, and therefore proper management of leave will ensure that any risks / liabilities for both the employer and employees are reduced to a minimum or prevented.
- 7.3.2. All leave granted, taken, encashed, forfeited and all actions around leave of an employee shall be recorded in the official leave register (*electronic format - ESS or manual- employee leave files*) of the employer and such leave register shall be under the control of the Manager: Human Resources.
- 7.3.3. An employee is entitled to inspect his/her leave record at all reasonable times during office hours (GG 16047, Par16.1)
- 7.3.4. All leave must be applied for in a format or way of application as approved by the employer (electronic format and hard copy application only if there are technical difficulties with the Employee Self Service System)

**7.4. Leave counting for purposes of leave allocation:**

- 7.4.1. Absence on unpaid leave that amounts to 20 working days or more in any year of service shall not be regarded as service for purposes of leave allocation [and salary increment(s)]. (Extract from previous Collective Agreement, GG16047, 28/10/1994).
- 7.4.2. The impact of the above is that 20 working days or more unpaid leave [which amounts to one working month] will extend any allocation period for leave liability with the equal amount of days for which unpaid leave was granted in a year of service.

**7.5. Application for Leave:**

- 7.5.1. An employee shall apply for leave in the format required by the employer (*electronic medium and on hard copy only in instances where there are technical problems with the Employee Self Service System*).
- 7.5.2. The employer shall not unreasonably withhold approval / granting of leave.
- 7.5.3. All forms of leave will be applied for in advance, and in exceptional cases (*sick leave and other crisis situations*), sick leave may be completed as soon as is practical during or after the period of absence.
- 7.5.4. Leave will be applied for specific periods – no open ended leave applications may be considered.

**8. ANNUAL LEAVE:**

- 8.1. An employer shall grant an employee the following annual leave:
  - Twenty-four (24) working days for (5) day worker, provided that the leave for an employee that works less than a 5-day week shall be calculated on a pro rata basis; and
  - Twenty-seven (27) working days for a six (6) day worker
- 8.2. An employer should ensure that the employee has sufficient leave days available to cover the days of leave which are applied for.
- 8.3. An employer must grant annual leave not later than six months after the end of the annual leave cycle.
- 8.4. An employee is required to take annual leave as follows:
  - A five-(5) day worker shall take a minimum of sixteen (16) working days leave; and
  - A six (6) day worker shall take a minimum of nineteen (19) working days leave.
- 8.5. If an employee to whom annual leave has been granted is certified hospital or bed bound by a registered medical practitioner or dentist, or a traditional healer registered with a recognized professional council in terms of legislation due to illness after his vacation leave has commenced, that part of the vacation leave during which he/she was thus certified hospital or bed bound shall be converted

into sick leave on submission of the prescribed certificate by such medical practitioner or dentist, or registered with a recognized professional council in terms of legislation.

- 8.6. If due to illness, an employee is unable to take vacation leave already deducted he/she shall be credited with an equal number of vacation leave days.
- 8.7. An employee must take annual leave not later than six months after the end of the annual leave cycle.
- 8.8. Employees have a right to take annual vacation leave, but the employer also has the right to indicate if the taking of leave may impact on operations. A reasonable compromise should be reached where leave should be taken in times that suit both the employee and the employer.
- 8.9. If (due to operational reasons) an employee cannot take vacation leave, then the vacation leave can be extended for a further 4 months.
- 8.10. Annual leave shall only be accumulated to a maximum of forty-eight (48) working days.
- 8.11. Any leave in excess of forty-eight (48) working 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 leave shall fall away.
- 8.12. Within six months of the leave cycle, an employee may not have more than 48 days' annual leave to his credit.
- 8.13. 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.

## **9. SICK LEAVE:**

- 9.1. With effect from the new sick leave cycle, an employer shall grant an employee eighty 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.
- 9.2. Sick leave shall be granted only in connection with an employee's absence from duty owing to illness, indisposition or injury.
- 9.3. In the case of nervous disorders, insomnia, debility or a similar less well-defined illness or indisposition, sick leave shall only be granted only if the municipality is satisfied that the employee's state of health:
  - renders him/her unfit for work; and
  - does not arise from his/her failure to make use of vacation leave.

- 9.4. 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.
- 9.5. An employee must at all times endeavor to attach medical certificates to sick leave applications with specific reference to sick leave for periods longer than two working days.
- 9.6. Sick leave on full pay and/or half pay in respect of which the afore mentioned certificate has not been submitted, may be granted for a maximum of twelve (12) working days during any calendar year of service and in respect of any further absence, vacation leave and/or leave without pay shall be granted.
- 9.7. If an employee must be absent from work for a longer period, a pro-forma certificate should be obtained from the doctor (e.g. before an operation / medical procedure) which will indicate the period of absence *even before* the sick leave is taken.
- 9.8. Leave applications shall also be completed and doctor's notes attached, even if an employee is using vacation or unpaid leave for purposes of sick leave (e.g. when sick leave has been depleted.)
- 9.9. When vacation or unpaid leave is used for purposes of sick leave, then this must be done with the employee's knowledge.
- 9.10. 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.
- 9.11. Polokwane municipality may at any time require an employee to submit himself/herself to an examination by a registered medical practitioner or dentist appointed by the employer and the cost of such examination shall be borne by the municipality.
- 9.12. The employer may, on the recommendation of a registered medical practitioner or dentist, or a traditional healer registered with a recognized professional council in terms of legislation, compel an employee who, in the Employer's opinion, is so indisposed that he/she cannot perform his/her duties properly, to take sick leave.
- 9.13. An Employee is entitled to additional sick leave as provided for in the Collective Agreement on Conditions of Service for the Limpopo Division; provided that the maximum period of sick leave to which an employee is entitled has been granted to him/her and owing to reasons of health he/she is not able to resume duty.



- 9.14. Sick leave shall not be granted to employees whose ill health has been caused by illegal activities.
- 9.15. An employee may not during any period of sick leave approved in terms of these conditions, resume service without the approval of a registered medical practitioner.
- 9.16. An employee who is absent from work due to illness must take all reasonable steps to notify the employer, director, manager or supervisor as soon as possible.

#### **10. SPECIAL LEAVE FOR INJURY ON DUTY CASES AND OCCUPATIONAL DISEASES:**

- 10.1. An employee who is absent from duty due to an injury arising out of his/her duties and occurring in the course thereof or owing to an illness contracted in the course of and as a result of his/her, shall be granted special leave on full pay for the period during which he/she is to perform his/her duties.
- 10.2. If the case falls within the ambit of the Compensation for Occupational Injuries and Diseases Act, 1993(Act 130 of 1993), the amount payable to him/her in terms of an Act by means of periodic payments of his/her monthly earnings, shall be paid over to the municipality, provided that the Employer has already advanced the amount to the employee.
- 10.3. Special sick leave may only be granted, if the Employer was notified of an accident or disease as required in terms of sections 38 and 68 of the Compensation for Occupational Injuries and Diseases (Act 130 of 1993) and that a satisfactory medical certificate from a registered medical practitioner is submitted to the Employer.
- 10.4. "Remuneration" as applicable in this paragraph (clause 10 of this policy) includes all forms of remuneration as envisaged in the Compensation of Occupational Injuries Act (Act 130 of 1993) and subject to all provisions of the Act.
- 10.5. Special sick leave may only be granted if the injury on duty has been approved by the Compensation Commissioner (Act 130 of 1993) in respect of 10.1. and 10.2. above.
- 10.6. If the period of special sick leave in terms of clause 10.3. above exceeds 365 calendar days the employer may take any decision it deems appropriate in line with "ill health" and/or incapacity provisions of the Labour Relations Act.

#### **11. SICK LEAVE WITHOUT PAY**

- 11.1. An employee to whom the maximum period of full and half pay sick leave has been granted, may be granted sick leave without pay for not more than 250 working days in any cycle if the employer is satisfied that such an employee is not permanently incapacitated to resume his/her duties: provided where sick leave without pay exceeds 40 consecutive days, the employee must be examined by a registered medical practitioner appointed by the employer. The cost of such examination shall be borne by Polokwane Municipality.

## **12. MATERNITY AND ADOPTION LEAVE:**

- 12.1. An employee including an employee adopting a child under three (3) months, shall be entitled to receive three (3) months paid maternity or adoption 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.
- 12.2. When a female employee applies for maternity leave, a doctor's note will be attached to the application indicating the expected date of delivery.
- 12.3. An employee who goes off from duty for maternity leave will complete all documentation before the start of the maternity leave.
- 12.4. Maternity leave may commence four (4) weeks before confinement.
- 12.5. Once maternity leave has commenced an employee may not return back to work within before the expected date of delivery and six weeks after the date of delivery, unless the employee so applies in writing and her application is supported by a doctor who certifies that she is in good health and may return to work.
- 12.6. To qualify for paid maternity leave, an employee must have one (1) year's continuous service with the employer.
- 12.7. An employee who does not qualify for paid maternity leave must apply for unpaid Maternity leave and then claim benefits from the Department of Labour (Unemployment Insurance Fund / UIF). The payment of benefits will be determined by the Department of Labour (and not by the employer.)
- 12.8. A copy of the legal adoption approval forms should be attached to the application for leave for purposes of adoption.

## **13. FAMILY RESPONSIBILITY LEAVE:**

- 13.1. Family Responsibility leave applies to an employee who has been in employment with an employer for longer than four (4) months.
- 13.2. 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:
  - 13.2.1. The employee's child is born;
  - 13.2.2. The employee's child is sick;
  - 13.2.3. The employee's spouse or life partner is sick;
  - 13.2.4. In the event of death of:
    - 13.2.4.1. The employee's spouse or life partner; or
    - 13.2.4.2. The employee's parent, adoptive parent, parents-in-law,
    - 13.2.4.3. Grandparent, child, adopted child, grand child or sibling.

#### **14. SPECIAL LEAVE FOR STUDY PURPOSES:**

When an employee applies for leave for study purposes, the employee must attach documentary proof for the reason that the leave is applied for.

##### **14.1. Leave for examination purposes:**

14.1.1. Where an employee applies for leave for exam purposes, an exam roster in the name of the employee should be attached to the application (not a copy of the general notice which was displayed at the tertiary institution – the general notice where the employee's individual name does not appear, does not prove that the employee has examination approval. The exam roster should explicitly mention the name of the employee.)

14.1.2. Special leave may be granted to an employee for the working day on which he/she sits for an examination prescribed by an educational institution in order to qualify for a formal qualification.

14.1.3. Special leave equal to the number of papers(examinations)for which an employee sits for an examination, may be granted to enable him/her to prepare for the examination.

##### **14.2. Additional leave for Post Graduate Studies:**

14.2.1. Special leave for a dissertation or thesis will be granted with full pay to a maximum of five (5) working days leave per qualification.

##### **14.3. Attending of classes during office hours:**

14.3.1. An employee who studies part-time or by means of correspondence in a field applicable to the employer and who, as a result of his/her studies, is required to be absent from his/her place of work, will be granted vacation leave and special leave on a 50:50 basis for the time he/she is released from duty, subject to the exigencies of the service.

14.3.2. If he/she does not have leave to his/her credit, unpaid leave will be granted.

#### **15. SPECIAL LEAVE FOR ADHOC INSTANCES:**

Special leave with full pay may be granted to an employee when the employee:

15.1. After the Council has given permission the employee may become a member of the reserve police, performs police duties in terms of Sec 48 of the South African Police Act, 1995(Act 68 of 1995).

15.2. Partake in a bonafide sport activity at provincial and higher level in which case the special leave will not exceed three (3) working days per event and these three (3) days may include travelling time.

15.3. Special leave on full pay will be granted to an employee who has been arrested or has to appear in court on a criminal charge and is later acquitted or has the charges withdrawn.

15.4. Gives evidence in a court case after a subpoena and/or summons has been served on him/her.

## **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 Municipality's System of Delegation.
- 16.2. Overtime worked as provided for in paragraph 14.1 shall be captured on an overtime schedule, specifying the date, hours of overtime worked and hours taken, which schedule must be signed by the employee and his/her supervisor.
- 16.3. Application for leave for purposes of time off in lieu of overtime shall be submitted as provided for in paragraph 7.5. Such applications must be accompanied by the schedule referred to in paragraph 14.2.
- 16.4. Where an employee is allocated special leave as payment for overtime worked, then the special leave should be allocated to the employee after converting the hours to overtime values in line with the Municipality's Overtime Policy.
- 16.5. Leave in lieu of overtime cannot be encashed and shall be forfeited if not taken within the calendar year which the employee became entitled to the leave, it shall be forfeited on the last day of such calendar year.

## **17. ADDITIONAL LEAVE FOR LONG SERVICE RECOGNITION**

- 17.1. An employee who was appointed after 1 July 1986 shall qualify for the following additional leave as recognition for long service at the same employer, which shall be only on the date on which the various periods of continuous service have been completed;

After:

**10 years of service – 10 working days**  
**15 years of service – 20 working days**  
**20 years of service – 30 working days**  
**25 years of service – 30 working days**  
**30 years of service – 30 working days**  
**35 years of service – 30 working days**  
**40 years of service – 30 working days**  
**45 years of service – 30 working days**

- 17.2. The long service recognition leave may be wholly or partially converted to payment on the date on which the employee qualifies for it or at any stage thereafter subject to budget provisions.
- 17.3. When an employee terminates services, long service recognition leave balance does not form part of the overhead maximum of 48 days leave that may be paid out as per the Main Agreement.

## **18. UNAUTHORISED ABSENCE FROM DUTY**

- 18.1. Unauthorised absence from duty shall, without prejudice to the rights of the employer with regard to disciplinary measures against an employee, be deemed to be special leave without payment, unless the Municipality decides otherwise.

## **19. UNPAID LEAVE**

- 19.1. An employee may apply for unpaid leave on the same format that other types of leave are applied for; the reasons for the unpaid leave must be provided on the application.
- 19.2. Unpaid leave more than 20 working days in a leave cycle extends the allocation date for new leave accruals; [Example: Where an employee is appointed on 1<sup>st</sup> of February, but the employee was absent without payment for the period middle April to middle May for a period of 20 working days, then the employee's date of allocation will be moved to March annually. The service year in this instance will thus run from beginning February to end February the next year, which may sound like a 13-month employment period, but it is not as the employee was absent without pay for one month.]
- 19.3. Unpaid leave must be captured on an employee's leave record and must also be informed to the payroll to ensure that the necessary adjustments to salary payment(s) are made.

## **20. RESUMPTION OF DUTY BEFORE LEAVE HAS EXPIRED**

- 20.1. 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.

## **21. LEAVE OF ABSENCE GRANTED IN EXCESS**

- 21.1. When more paid leave of absence that 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, whichever the employee may prefer.

## **22. TERMINATION OF PERMANENT SERVICE AND RE-EMPLOYMENT**

- 22.1. 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.

## **23. IMPLEMENTATION OF THE POLICY**

This policy will be implemented and effective once approved by Council.

#### **24. COMMUNICATION**

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

#### **25. POLICY REVIEW**

This policy will be reviewed annually and revised as necessary.

#### **26. 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.