

INCAPACITY POLICY
2025/2026 FY



APPROVED BY:

APPROVED BY:

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DATE: 19/06/2025

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TABLE OF CONTENTS

- 1. Purpose of Policy..... 1
- 2. Objective of Policy.....2
- 3. Scope.....2
- 4. Policy Definition.....2
- 5. Legislative Framework.....2
- 6. Policy or Procedure Target.....2
- 7. General policy provisions.....2
- 8. Procedure for Implementing policy.....3
- 9. Policy governance.....4

1. POLICY BACKGROUND

It is a legislative requirement for a municipality to have an approved policy regulating termination of employment on grounds of incapacity to perform duties.

2. POLICY PURPOSE

2.1 The purpose of this policy is to provide a framework within which incapacity of employees due to ill health, including but not limited to, intermittent illness, physical incapacity, long term illness, alcohol and drug addiction, serious or contagious disease, work related accident or injury, mental illness, old age and continuous or intermittent absenteeism due to illness, can be handled effectively, efficiently and uniformly throughout Mbhashe Local Municipality.

3. DEFINITIONS

This policy strives to meet the Municipality's responsibilities and roles with to the employer-employee relationship in the context of;

- a) Correctable, manageable, or treatable conditions
- b) Short-term chronic or recurring conditions
- c) Progressive, long-term impairment, life threatening disease

4. APPLICATION AND SCOPE

This policy shall apply to all employees of the Mbhashe Local Municipality excluding EPWP and Interns employees.

5. LEGISLATIVE FRAMEWORK

5.1 SALGBC Agreement on Conditions of Services:

5.2 Constitution of South Africa. Basic Conditions of Employment, Act No 75 of 1997;

5.3 Compensation for Occupational Injuries and Diseases Act, Act 130 of 1993;

5.4 Labour Relation's (Act No. 66 of 1995 as amended 2002);

5.5 Occupational Health and Safety Act, 1993, Act No 85 of 1993;
Pension Fund Act and Statutes;

1. POLICY PROCEDURE

1.1 CATEGORIES

1.2 The following categories of incapacity can apply:

- a) Permanently totally incapacitated
- b) Permanently partially incapacitated
- c) • Temporarily partially incapacitated
- d) • Temporarily totally incapacitated

COMPOSITION OF THE INCAPACITY COMMITTEE

- a) An Incapacity Committee, facilitated by the Corporate Services Department, shall be established as and when need arises consisting of the following members:
- b) • Supervisor/Manager from the relevant Department;
- c) • Affected Employee;
- d) • Registered trade Union representative as delegated or confirmed by the Trade Union
- e) • Corporate Services Department:
- f) • Labour Relations
- g) • HR Manager or delegate
- h) Any Other stakeholders if required

FUNCTIONS OF THE INCAPACITY COMMITTEE

- a) Members of the Incapacity Committee have the following functions in considering all alternatives short of dismissal, including the extent to which the employee’s work circumstances or duties might be adapted to accommodate him / her, the possibility of securing a temporary replacement for the employee, and the availability of suitable alternative work

IDENTIFICATION PHASE

MEMBER	FUNCTION
Relevant Department	To investigate the extent of the employee’s incapacity and prognosis, keeping the following in mind: <ul style="list-style-type: none"> • the nature of the job; • the period of absence; • the possibility of securing temporary replacement. To provide the committee with all relevant information concerning the employee i.e. sick leave record, observed behaviour, redeployment possibilities, reasons for application, as well as relevant standards against which performance can be measured.

EXPLORATORY PHASE

MEMBER	FUNCTION
Employee	The employee must be allowed an opportunity to state a case in response and may be assisted by a registered trade Union

	representative or fellow employee.
Registered trade Union representative	A registered trade Union representative or fellow employee shall assist the employee, unless he / she choose otherwise.
Corporate Services Department (Chairperson & Secretary	To provide the Incapacity Committee with information with regard to vacancies and possibility of securing temporary replacement, advise with regard to relevant policies and handle the administrative processes, including registration of the incapacity case. Gather all financial information and the implications thereof, if the employee is a member of any of the Council's approved Pension / Provident funds.
Labour Relations	To ensure that employee is afforded a fair and just incapacity hearing before dismissal, in accordance with all the relevant legislation To advise the Incapacity Committee.
HR Manager or delegate	To provide the Incapacity Committee with information with regard to vacancies and possibility of securing temporary replacement, advise with regard to relevant policies and handle the administrative processes, including registration of the incapacity case. Gather all financial information and the implications thereof, if the employee is a member of any of the Council's approved Pension / Provident funds..

PROCEDURE OF ASSESSMENT

STAGE	DESCRIPTION	RESPONSIBLE DIVISION
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1	Initial assessment of the information regarding the employee's incapacity.	Department, HR Manager, Labour Relations and Relevant Department.
2	Refer the case to the Corporate Services Department, with all relevant information, for recording in the central register.	Relevant Department.
3	Convene a meeting of the Incapacity Committee to deal with the cases received	HR
4	Initial assessment preparation	HR
5	Determine one of the following options on the basis of its suitability to the nature of the incapacity <ul style="list-style-type: none"> • Maintain <i>status quo</i> of current position, if the employee's duties may be satisfactorily adapted. • Consider alternative Accommodation • Request medical boarding. • Refer for counselling, • Any other alternative short of dismissal. • Request Investigation for an incapacity hearing. 	Incapacity Committee.
7	Secure temporary replacement if necessary.	Corporate Services
8	Monitor the progress	Applicable Department
9	Refer to Pension Fund Adjudicator if necessary.	Corporate Services

SICK LEAVE & SALARY

a) Cases of incapacity registered by the Incapacity Committee will, from date of registration, be entitled to apply for "Additional paid sick leave" until the issue is concluded, provided that normal sick leave has been exhausted.

MEDICAL COSTS

Medical costs shall be covered as follows:

Medical Boarding

- a) If the employee is a member of any of the Council's approved Pension/Provident Funds, the Council is liable for the payment of all medical expenses.
- b) If the employee is not a member of any of the Council's approved Pension/Provident Funds, the Council shall consider the payment of medical expenses through the Employee Wellness Section.

Medical Assessment

- a) If the Council arranges a medical assessment for an employee, the payment of such medical expenses shall be paid through the Employee Wellness Section.
- b) If the employee does not honour the appointment, the employee will be responsible for any costs incurred, unless Corporate Services in consultation with his/her registered trade Union representative or fellow employee; found that the reasons for not honouring the appointment was warranted.
- c) No medical costs incurred on the own initiative of the employee will be paid for by the Council.

6. IMPLEMENTATION

This policy shall be effective from the 01st of July 2025.

7. REVIEWAL

This policy shall be reviewed on annual basis