

# INCAPACITY POLICY



APPROVED BY:

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MUNICIPAL MANAGER  
DATE: 17/06/22...

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DATE: 17/06/22.....

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## 1. PURPOSE OF POLICY

- a) 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.

## 2. OBJECTIVE OF POLICY

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

## 3. SCOPE

This policy shall apply to all employees of the Mbhashe Local Municipality.

## 4. POLICY DEFINITION

### Term Definition

- a) **"Accident"** Means an accident arising out of an unplanned or unexpected event and in the course of an employee's employment and resulting in a personal injury, illness or the death of the employee
- b) **"Employee"** Means Any person, excluding an independent contractor, who works for another person or for the State and who receives, or is entitled to receive, any remuneration; and
- c) b) any other person who in any manner assists in carrying on or conducting the business of an employer, and "employed" and "employment" have a corresponding meaning
- d) **"Medical Practitioner"** Means a person entitled to practice as a medical practitioner in terms of section 17 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974) and including a registered Traditional Healers.
- e) **"Work related injury"** Means a personal injury sustained as a result of
- f) an accident at work
- g) **"Ill health"** Means a physical or mental condition in which the employee is declared, partially or totally unfit to perform his/her duties, by a registered medical practitioner
- h) **"Incapacity"** Means a condition in which an employee, temporarily or permanently does not have the physical, mental or attitudinal ability to perform the duties of the post in which he / she was appointed
- i) **"Incapacity Committee"** Means a Committee consisting of members of the Corporate Services Department, Management from the applicable Department, the

applicable Employee, a representative from an registered trade Union and a registered Medical Practitioner, convened to investigate a case of incapacity

- j) **“Incapacity due to old age”** Means a condition in which an employee becomes, increasingly incapable of permanently performing the duties in which he / she was appointed due to the effects of old age
- k) **“Pension Fund Regulations”** Means the regulations from the different pension funds applicable to termination of service due to incapacity
- l) **“Registration of an incapacity case”** Means a procedure according to which a case of incapacity is reported to the Provisioning and Maintenance Division and recorded in a central register
- m) **“Sick leave”** As described in the applicable Conditions of Service
- n) **“Additional paid sick leave”** As described as that which the Incapacity Committee shall recommend, on an individual basis, that additional paid sick leave for an employee be approved by the Municipal Manager. This definition will exclude Injury on Duty as it is covered by the COIDA

## **5. LEGISLATIVE FRAMEWORK**

SALGBC Agreement on Conditions of Services:

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

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

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

Occupational Health and Safety Act, 1993, Act No 85 of 1993;

Pension Fund Act and Statutes;

## **6. POLICY PROCEDURE**

### **6.1 CATEGORIES**

6.2 The following categories of incapacity can apply:

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

### **6.3 COMPOSITION OF THE INCAPACITY COMMITTEE**

- a) An Incapacity Committee, facilitated by the Corporate Services Department, shall be established consisting of the following members:
- b) • Management / Supervisor from the relevant Department;
- c) • Employee;
- d) . Relevant pension fund
- e) • Registered trade Union representative as delegated or confirmed by the Trade Union
- f) • Corporate Services Department:
- g) • Labour Relations
- h) • Employee Wellness Practitioner
- i) (Psychological Services, as well as Occupational Health and Safety),
- j) • Registered Medical Practitioner (Occupational Health)
- k) Other stakeholders if required
- l) Relevant Trade Union will be invited to all such meetings

## 6.4 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

## 6.5 IDENTIFICATION PHASE

MEMBER	FUNCTION
Management/Supervisor	<p>To investigate the extent of the employee's incapacity and prognosis, keeping the following in mind:</p> <ul style="list-style-type: none"><li>• the nature of the job;</li><li>• the period of absence;</li><li>• the possibility of securing temporary replacement.</li></ul> <p>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.</p>

## 6.6 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

	<p>policies and handle the administrative processes, including registration of the incapacity case.</p> <p>Gather all financial information and the implications thereof, if the employee is a member of any of the Council's approved Pension / Provident funds.</p>
Labour Relations Division/ Employee Well Being Division	<p>To act as a labour advisor to the Incapacity Committee.</p> <p>See to it that where no alternatives are found to exist, the employee must be afforded a fair incapacity hearing before dismissal, in accordance with all the relevant legislation</p> <p>To advise the Incapacity Committee. To conduct counselling sessions with the employee and / or conduct an occupational health investigation. In cases where the incapacity is related to e.g. alcoholism or drug abuse, to arrange and refer the employee for rehabilitation.</p>
Registered Medical Practitioner (Occupational Health)	<p>To answer pertinent questions concerning the employee's medical and physical state, prognosis, transfer ability to a possible new job, etc. All medical Practitioners is not obliged to release any information where such information will not be to the committee's assistance in determining if the employee's work or personal situation can be improved.</p>
Relevant Pension Fund	<p>To ensure that its regulations are adhered to and followed. To also advise the committee and conduct its own verification processes.</p>

## 6.7 PROCEDURE OF ASSESSMENT

Referral comes from the following Source:

- a) Employee
- b) Supervisor
- c) Disciplinary Action
- d) Employees Well Being Practitioner

and are dealt with as follows:

a) Relevant pension fund

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

	necessary.	
8	Monitor the progress	Applicable Department
9	Refer to Pension Fund Adjudicator if necessary.	Corporate Services Relevant pension fund

## **6.8 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.

### **6.8.1 MEDICAL COSTS**

Medical costs shall be covered as follows:

#### **6.8.2 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.

#### **6.8.3 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 the Director: 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.

## **7. GENERAL POLICY PROVISIONS**

Policy applies to all employees of Mbhashe Local Municipality  
excluding EPWP employees as regulated by Ministerial Determination  
of EPWP

## **8. PROCEDURES FOR IMPLEMENTING POLICY**



The Municipality will implement this policy as outlined and apply remedial actions in line with the outlined processes.

## 9. POLICY GOVERNANCE

<b>Policy Title</b>	<b>INCAPACITY POLICY</b>	
<b>Policy Version</b>		
<b><u>Role &amp; Process</u></b>	<b><u>Responsible Individual Name and/or Date</u></b>	<b><u>Responsibility Accepted Signature</u></b>
<b>Senior Manager Corporate Services</b>	<b>Ms N. Nkuhlu</b>	
Policy Custodian	N.NKUHLU	
Policy Author		
LLF Consultation Date		
LLF Consultation Reference		
Council Approval Date		
Council Approval Reference		
<b>(UNIT) eg. Manager Human Resources</b>	<b>N. Hanise</b>	
Policy Approved		
Policy Inception Date		
Review Start Date		
Review Completion Date		
Legislative References		
Policy Review "Triggers"		
<b>Comments</b>		