



RAMOTSHERE MOILOA LOCAL MUNICIPALITY

TERMINATION POLICY

Council resolution: 47/05/2015

Approval date : 28th MAY 2015

1. DEFINITIONS

In this Policy, unless the context determines otherwise:-

"SALGBC" means the South African Local Government Bargaining Council;

"Act" means "The Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), as amended" .

"Exit" means Termination of Service by any of the employees in the workplace, either by voluntary resignation or by retirement, or by dismissal in terms of the Disciplinary and Grievance Code Agreement or by any means recognise by law."

2. INTRODUCTION

2.1 The South African Local Government Bargaining Council's Disciplinary and Grievance Code Agreement contains a disciplinary code and procedure, and these structures make provision for dismissal as a possible disciplinary step.

2.2 There are nevertheless certain constraints on termination, which may be highlighted in an industrial relations context.

2.3 Proper legal procedures must be followed when a person is dismissed, and matters such as notice of termination of contract, payment upon termination, payment in lieu of notice and commencement of the notice period must be handled with great care, and preferable with the Council's Attorneys.

3. OBJECTIVES

3.1 The objective of this policy is to set procedure and guidelines on termination of service in accordance with the Act.

3.2 Legislative framework

- 3.2.1 SALGA Main Collective agreement;
- 3.2.2 Labour Relations Act as amended;
- 3.2.3 Constitution of the Republic of South Africa;
- 3.2.4 Local Government: Municipal Systems Act;
- 3.2.5 Basic Conditions of Employment Act;
- 3.2.6 Local Labour Forums resolutions as adopted from time to time;

4. TERMINATION OF SERVICE

4.1 Normal Resignation : Unless otherwise provided for in the contract of employment, an employee must give one month's written notice of his/her intention to resign. A shorter notice period may be accepted if exceptional circumstances exist or if such step is in the best interest of the Municipality.

4.2 If an employee resigns and gives notice not later than the first working day of the month to terminate his/her services at the end of that month, he/she shall receive salary and allowances in respect of the full month, in spite of the fact that the month may end on the day of rest, provided he/she performs her duty up to and including the last working day of that month. In all other instances, salary and allowances are paid only up to, and including an employee's actual last day of service.

- 4.3 Unless approved by the Municipal Manager, which approval may not unreasonable be withheld, a period of notice may not run concurrently with an employee's absence on vacation leave.

5. REASONS FOR TERMINATION OF SERVICE

- 5.1 The services of an employee may be terminated for the reasons recognised by the law, through:

- (a) Retirement, in accordance with the stipulation set out in the pension fund scheme and/or the attainment of the normal retirement age;
- (b) Continuing, ill-health or occupational disability, subject to the stipulation of the medical practitioner of the employee and the concurrence by the medical practitioner to be appointed by the employer.
- (c) The abolition of the post, reduction of staff, reorganisation or re-adjustment of functions, subject to the review of the council organizational structure adopted from time to time after consultation with all stakeholders, where applicable:
 - (aa) Misconduct
 - (bb) Convicted of a criminal offence and Sentenced to imprisonment;
 - (cc) Inability to perform duties related to the post for whatever reason (which includes the failure to obtain any qualification which has been set as a prerequisite for appointment.);

- (dd) The non-ratification of an appointment;
- (ee) The death of an employee;
- (ff) Mutual notification in writing of termination of service; and
- (gg) Abscondment or desertion.

6. NOTIFICATION OF TERMINATION OF SERVICE

- 6.1 The termination of service by an employee is subject to the acceptance thereof by the Municipal Manager, in the case of the Head of Department, and the Head of Department in the case of an employee and administrative handling thereof by the Director Corporate Services.
- 6.2 The service of an employee whose notification regarding termination of service has been accepted, but who has failed to report for service thereafter, shall be terminated on the last working day that the employee actually worked.

7. NOTIFICATION OF TERMINATION BY PERMANENT EMPLOYEES

- 7.1 The service of a permanent and temporary employee may be terminated on mutual notification in writing in terms of the provisions set out in section 37 (1) of the Act, of at least:
 - (a) one (1) working week, if the employee has been employed for four weeks or less;
 - (b) two (2) working weeks, if the employee has been employed for more than four weeks but not more than one year;

- (c) four (4) working weeks, if the employee has been employed for one year or more, including but not limited to section 57 employees and other contractual employees;
- (d) A collective agreement a notice period shorter than that required by subsection (1) of the Act.

8. NOTIFICATION OF TERMINATION OF SERVICE DURING PROBATIONARY PERIOD

- 8.1 The services of an employee whose probationary period is extended and whose services continue to be unsatisfactory thereafter shall be terminated.

9. NOTIFICATION OF TERMINATION OF SERVICE RELATED TO MEDICAL REASONS

- 9.1 An employee whose continued ill-health or disability prevents him/her from performing the duties satisfactorily, may submit a written request to be retired on account of such ill-health or disability for consideration. The emphasis is placed on permanent ill-health or disability.
- 9.2 In the case of termination of service for medical reasons, in compliance with the provisions of the Municipal pension/provident fund scheme, such an employee's service shall end on the date stipulated by the Municipal pension/provident fund scheme;
- 9.3 If the employee is found to be permanently medically unfit by the Municipal pension/provident fund scheme, the services of such an employee shall be terminated in collaboration with the Trade Union in the workplace, with one working month written notification.

10 RESIGNATION ON SHORT NOTIFICATION

10.1 The Municipal Manager may approve a resignation with a shorter period of notification than that prescribed, provided that the conditions of service allows for this, and the Head of Department had recommended such resignation.

10.2 Although the salaries and allowances shall be payable up to, and including, the employee's actual last day of duty, the Municipality shall recover all outstanding monies relating to the employee's breach of the contract of employment.

11. EXIT INTERVIEW

11.1 The aim of conducting an exit interviews is to obtain information in a structured manner from all employees who resigns. This information shall be used to identify and monitor staff turnover trends, possible problem areas and reasons why employees resign.

11.2 Conducting exit interviews will assist the Municipality towards developing a strategy to control staff turnover and improve staff retention.

11.3 It is specifically recorded that all employees are required to attend the exit interview, to be conducted by the Human Resources Officer, prior to leaving the service of the Municipality.

11.4 Information obtained during the exit interview is confidential and to a certain extent sensitive and must be treated in a professional manner.

11.5 Employees must be protected against victimisation based on information given during an exit interview.

12. TERMINATION AND CERTIFICATE OF SERVICE

12.1 Any employee whose service is terminated for whatever reasons, is entitled to a certificate of service, containing the following information:

- (a) Full name of the employee;
- (b) Name and address of the Municipality;
- (c) Employee's Job Title or brief job description and date of termination of employment;
- (d) Date of appointment;
- (e) Date of termination of contract;
- (f) Salary of employee at the date of such termination;
- (g) If the employee so requests, the reason for termination of employment.

12.2 A certificate of service should be signed by the Municipal Manager or his/her Nominee in the case of the Head of Department resigning, and the Director Corporate Services, in the case of all employees.

13. ABSCONDMENT OR DESERTION

13.1 An employee who leaves the service of the Municipality without giving notice of his/her intention to resign, may be paid salary and allowances up to his/her actual last day of duty. The Municipality, however, reserves its right to recover all monies from the employee relating such abscondment.

14. RETIREMENT ON REACHING STATUTORY RETIREMENT AGE

14.1 All employees shall retire at the age of 65, in the case of men and 60, in the case of women. Unless the contract of employment provide otherwise, an employee must give written notice of at least three months of his/her intention to retire.

15. DISCIPLINARY ACTION

Should any employee violate any provisions of the policy, he/she will be subjected to the internal disciplinary processes as guided by the SALGA disciplinary code and procedure.

Dated at Ramotshere Moiloa Local Municipality on this the 28th day of May 2015.



Speaker

Ramotshere Moiloa Local Municipality