

# **WINNIE MADIKIZELA MANDELA LOCAL MUNICIPALITY**



## **TERMINATION OF SERVICES POLICY**

Approved by the COUNCIL on:

13 May 2022

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## 1. PREAMBLE

This document provides guidelines on the process to be followed, when the services of Mbizana Municipality employees are being terminated as a result of natural attrition, operational or other reasons.

## 2. DEFINITIONS

- 2.1. **Employee:** means any person employed in the Mbizana Municipality in terms of the SALGA conditions of services.
- 2.2. **Employer:** means the word employer is used to cover the Mbizana Municipality as well as designated individuals employed in any managerial capacity within the department.
- 2.3. **Operational requirements:** means Requirements based on the economic, technological, structure or similar needs of the Mbizana Municipality.
- 2.4. **Unfitness:** means incompetence/incapability/incapacity
- 2.5. **Misconduct:** means improper conduct by an employee, contrary to legal and moral acceptability, within the organization.

## 3. LEGAL FRAMEWORK

- 3.1. Municipal Systems Act No. 32 of 2000
- 3.2. The Labour Relations Act, 1996: This Act provides for, or describes;
- 3.3. The Basic Conditions of Employment Act, 1997 This act stipulates the following requirements attached to termination of employment;
- 3.4. SALGBC Main Collective Agreement on Conditions of Service.

#### **4. OBJECTIVE OF THE POLICY**

The objective of this document is to provide general guidelines with regard to the termination of service of employees as well as provide conditions with regard to various termination situations.

#### **5. SCOPE OF APPLICATION**

This document applies to all employees including those employed in terms of section 56 and 57 of the Local Government: Municipal Systems Act 2000, within the Mbizana Municipality.

#### **6. GUIDING PRINCIPLES**

The Line Manager, supported by the Corporate Services Department, is responsible for ensuring that the termination of service of an employee is procedurally and substantively fair.

#### **7. FORMS OF TERMINATIONS**

##### **7.1. RESIGNATION**

An employee may resign from service of Council on any basis recognized by law and for that purpose, unless otherwise agreed to with the Line Manager or his/her delegate, shall:

- 7.1.1. In case of an employee paid monthly who has been in Council service for more than one (1) year shall give at least one month's written notice of resignation, as provided for in section 37 of the BCEA; or
- 7.1.2. In the case of an employee who has been employed for less than four weeks, shall give at least one week's notice of resignation;
- 7.1.3. In tendering his/her resignation, an employee must submit his /her letter of resignation to the Line Manager who will forward it to the Corporate Services Department.

- 7.1.4. In the case of an illiterate employee, such notice shall be given verbally but will be recorded accordingly in the presence union representative and the line-manager's supervisor.
- 7.1.5. The time-frames reflected above shall be applicable to both the employee and the employer.
- 7.1.6. Payment in lieu of notice shall be affected in all terminations effected by reason of summary dismissals based on misconduct.

## 7.2. RETIREMENT

### 7.2.1. Compulsory Retirement

- (a) In South Africa there is compulsory retirement age of 60 and 65 for both women and men respectively. Any employee must be retired on the last day of the month in which he reaches his or her retirement age. Once an employee remains in service beyond the retirement age without an express retainer contract, such employment is wholly illegal and terminable without notice. The Amendment Act, 1996, provides for the employee's right to retire on reaching the retirement age or prescribed retirement date provided for in any other law applicable to him/her on that day.
- (b) Section 16(7) of the Public Service Act, 1994 however provides that if it is in the public interest to retain an employee in his/her post beyond the age of 65 years, such retention shall be on the employee's consent and approval of the Head of Department or her delegate for further periods not exceeding on the aggregate, two years.
- (c) In terms of Human Resource practices and remuneration management, the normal retirement age for all employees will be 60 years. The retirement date will be last working day of the month in which the retirement age is reached. Due regard shall be given to protect the existing rights of employees.

### **7.2.2. Voluntary Retirement**

An employee may exercise an option to retire earlier than the compulsory retirement age. This shall be permissible upon attaining the age of 55 years or on any date after that date and/or notching up 20 years of continuous service with Mbizana Municipality. Due regard shall be given to existing pension/provident fund rules that may be amended from time-to-time. An employee who wishes to exercise this option must notify the Line Manager in writing, through his/her manager/supervisor, or his/her intention to exercise this option; three calendar months prior to the date that he/she wishes to retire. Employees should contact the Corporate Services Department for advice and assistance on the benefits which are payable, before exercising this option.

### **7.3. DISCHARGE OF AN EMPLOYEE**

An employee may be discharged from the Winnie Madikizela-Mandela Local Municipality in terms of the following conditions:

- 7.3.1. on account of continued ill-health
- 7.3.2. dismissals based on operational requirements in terms of section 189 and 189A;
- 7.3.3. on account of unfitness for his/her duties or incapacity to carry them out efficiently;
- 7.3.4. on account of misconduct;
- 7.3.5. if, in the case of an employee appointed on probation, his/her appointment is not confirmed;

### **7.4. INCAPACITY DUE TO ILL-HEALTH**

The Head of the Department may on the basis of medical evidence, approve the discharge of an employee as provided in Schedule 8 of the Labor Relations Act of 1995.

- 7.4.1. To this end, the Line Manager may require an employee to undergo a medical examination by a registered physician.
- 7.4.2. The employee must complete and sign an application form for permanent disability where after the Line Manager completes a “statement by supervisor form”. These forms, together with the Medical Reports, must then be forwarded to HR Department for action.
- 7.4.3. A discharge on account of ill health shall occur with due regard to Item 10 of Schedule 8 to the Labour Relations Act, 1995.
- 7.4.4. All ill health discharges will only be considered if recommended by the Medical Board.

#### **7.5. INCAPACITY DUE TO POOR WORK PERFORMANCE**

- 7.5.1. Any discharge for incapacity to carry out duties efficiently must comply with the provision of the Labor Relations Act No. 66 of 1995 and the applicable collective agreements. The requirement of schedule 8 of the LRA must be complied forthwith and the Human Resources Management must provide continuous and careful to both the affected employee and the line-manager/head of department. The Head of Department or his/her delegate shall approve such discharges.
- 7.5.2. Item 10 of Schedule 8 of the Labour Relations, Act, 1995 permit the discharge by non-confirmation of probation of employees due to poor work performance.

#### **7.6. MISCONDUCT**

An employee may be discharged from the Municipality for misconduct in terms of any ground recognized by law. This termination does not prohibit payment in lieu of notice where summary dismissal is affected as a sanction.

## **7.7. ABSCONDMENT**

- 7.7.1.** An employee who absents himself/herself from his/her official duties without permission of the line manager, for a period exceeding 5 consecutive days to 15 days, shall be deemed to have discharged him or herself from the Municipality on account of misconduct with effect from the date immediately succeeding his/her last day of attendance at his/her place of duty.
- 7.7.2.** Instructively, reasonable efforts shall be made the employer to ascertain the challenges befalling the employee through directing correspondence and visits to the last communicated address. More importantly, the employee shall have the burden to communicate their absence within the first two (2) hours of the first day absent. Demonstrable efforts shall be made to contact line-manager by all means reasonable (i.e. Telephone, message through a colleague or a family member or an acquaintance of the affected employee)
- 7.7.3. Imprisonment**  
When an employee serves a term of imprisonment in terms of a sentence imposed by a competent court, the matter will be dealt with as abscondment.

## **7.8. DEATH**

Human Resources Department should be informed of the employee's death and on receipt of the Notification of Death the standard documentation must be completed.

## **8. ROLES AND RESPONSIBILITIES**

- 8.1. Roles of the Line Manager is to:**
- 8.1.1.** Distribute service termination documentation to employees
  - 8.1.2.** Collect relevant documentation from employees
  - 8.1.3.** Inform Corporate Services Department of termination and forward documentation for processing



**8.2. Role of the Employee is to:**

- 8.2.1. Provide correct information and
- 8.2.2. Complete documentation as requested.

**8.3. Role of the Corporate Services Department is to:**

- 8.3.1. Make all the necessary and relevant information available to employees
- 8.3.2. Ensure the correct application of the guidelines on service terminations in the departments
- 8.3.3. Follow progress of individual cases up with SAMWU National Provident Fund or any other accredited pension/provident fund on a regular basis.
- 8.3.4. Monitor and evaluate service terminations in the Department

**9. MONITORING, EVALUATION AND REPORTING**

- 9.1. The line Manager of every Department shall be responsible for monitoring of the personnel whose services are terminated.
- 9.2. The Line Manager will submit a report to the Senior Manager: Corporate Services on the status relating to terminations.
- 9.3. The Senior Manager: Corporate Services is responsible for the monitoring and evaluation of Service Terminations.

**10. TERMINATION PROCEDUR**

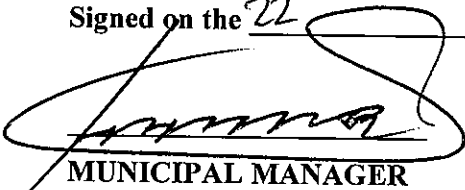
- 10.1. Upon termination of employment, Corporate Services Department will issue an Exit Interview form which must be completed by the relevant employee and handed back to Corporate Services, the form will then be circulated to relevant departments to confirm that the employee does not owe the municipality and that the employee is not in possession of any municipal assets.
- 10.2. Corporate Services Department will inform the Human Resource section and the ICT section to facilitate the process of terminating the employee from the payroll and ICT systems.

- 10.3. Should an employee be terminated, the number of vacation leave days credit will be used to retrieve any amount owed to the municipality including consumer accounts with due processes having been followed.

**11. POLICY REVIEW AND REPORT**

- 11.1. The policy document shall be reviewed annually and/or when deemed necessary especially if there is a change in Collective agreement or legislation and submitted as part of the budget approval process.

Signed on the 22 day of 06 2021



MUNICIPAL MANAGER

2 ANNEXURE 1: EXIT INTERVIEW FORM

WINNIE MADIKIZELA MANDELA LOCAL MUNICIPALITY



This form is to be completed by employee, assisted by the HR Manager during the exit interview with the employee leaving the Council's service.

EMPLOYEE NAME: \_\_\_\_\_  
DEPARTMENT: \_\_\_\_\_  
JOB TITLE: \_\_\_\_\_  
ENGAGEMENT DATE: \_\_\_\_\_  
TERMINATION DATE: \_\_\_\_\_

1. Which of the following influenced your decision to leave the Council's service?

Tick as many as you find relevant.

- 
- a) Better job opportunity \_\_\_\_\_
  - b) Health reason \_\_\_\_\_
  - c) Transport reason \_\_\_\_\_
  - d) Working condition \_\_\_\_\_
  - e) Salary insufficiency \_\_\_\_\_
  - f) Family/ personal reasons \_\_\_\_\_
  - g) Supervision difficulties \_\_\_\_\_
  - h) Maternity \_\_\_\_\_
  - i) Retirement \_\_\_\_\_
  - j) Other \_\_\_\_\_

If "other" please specify

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**2. Please rate physical working conditions**

Circle you option

- a) Good
- b) Bad
- c) Poor



**3. In your own opinions, what can be done to improve the working conditions?**

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**4. Please rate your work load**

Circle your option

- a) Too heavy
- b) Too light
- c) Too lenient
- d) Can't say



**5. Do you feel your Supervisor?**

(Mark: Always, Usually, Sometimes or Never)

- a) Treated everyone fairly? \_\_\_\_\_
- b) Gave praise when a good job is done? \_\_\_\_\_
- c) Followed Council policies and procedures? \_\_\_\_\_
- d) Offered assistance when required? \_\_\_\_\_
- e) Resolved queries and complaints quickly? \_\_\_\_\_

**6. How were the disciplinary measures?**

- a) Fair
- b) Too severe
- c) Too lenient
- d) Can't say

**7. Training affordability**

- a) Is training provided enough to ensure high job performance? \_\_\_\_\_
- b) Do you feel training can be improved? \_\_\_\_\_

If yes, please tell us how:

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**8. How were your chances of advancement?**

Circle your option

- a) Good
- b) Average
- c) Poor

Please give reasons to the above response?

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**9. How would you rate the following in your department:**

(good, average or poor)

- a) Safety \_\_\_\_\_

- b) On the job training \_\_\_\_\_
- c) Cooperation within the department \_\_\_\_\_
- d) Cooperation with other departments \_\_\_\_\_
- e) The relations between management and the workforce \_\_\_\_\_

10. Was the information relating to your job passed on to you by the management in good time?

Circle your option

- a) Always
- b) Sometimes
- c) Usually
- d) Never

11. In your experience, were changes and development related to your work communicated to you before implementation?

Circle your option

- a) Always
- b) Sometimes
- c) Usually
- d) Never

12. Were your opinions sought by the Supervisor to job related issues?

Circle your option

- a) Always
- b) Sometimes
- c) Usually
- d) Never

13. Please rate the Council's salary rates and benefits

(Rate with good, average, poor)

- a) Rate of pay \_\_\_\_\_
- b) Leave \_\_\_\_\_

- c) Retirement plans \_\_\_\_\_
- d) Life and disability insurance \_\_\_\_\_

14. Do you feel any of the above could be improved? (Y/N) \_\_\_\_\_

If yes, tell us how?

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15. How would you rate the following facilities provided by the Council?

(Rate Good, Average or Poor)

- a) Toilet facilities
- b) First Aid facility
- c) Transport
- d) Parking
- e) Security
- f) Machinery and tools
- g) Working resources

16. Do you feel any of the above can be improved? (Y/N) \_\_\_\_\_

If yes, tell us how?

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17. Have you ever experienced any of the following discrimination whilst serving in this council?(Y/N)

- a) Race \_\_\_\_\_
- b) Sex \_\_\_\_\_
- c) Victimisations \_\_\_\_\_

18. What, in your own opinion is the relation between employer and Unions?

Circle your option

- a) Good
- b) Average
- c) Poor
- d) Can't say

19. Do you think the above can be improved? (Y/N) \_\_\_\_\_

If yes, tell us how?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

20. What were your highlights about your job?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

21. What were your least favourites moments about your job?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

22. Would do you recommend Mbizana LM to the youth and other professionals as good place to work?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

23. What kinds of reputation do you the Municipality has?

- a) In the community? \_\_\_\_\_
- b) With the customers? \_\_\_\_\_



c) With Service Providers? \_\_\_\_\_

24. If the reason for leaving is another job offer, please provide details of the new employer

NAME OF COMPANY:

\_\_\_\_\_

NEW JOB TITLE:

\_\_\_\_\_

REASONS FOR ACCEPTING THE

JOB: \_\_\_\_\_

\_\_\_\_\_

25. Comment by interviewer:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Employee Names: \_\_\_\_\_ Sign \_\_\_\_\_

HR Manager: \_\_\_\_\_ Sign \_\_\_\_\_

Line Supervisor's Name: \_\_\_\_\_ Sign \_\_\_\_\_



**ANNEXURE 2: EMPLOYEE EXIT CLEARANCE FORM**

**WINNIE MADIKIZELA MANDELA LOCAL MUNICIPALITY**

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Employee Name: \_\_\_\_\_  
 ID Number: \_\_\_\_\_  
 Employee Code: \_\_\_\_\_  
 Department: \_\_\_\_\_  
 Termination Date: \_\_\_\_\_

Requirement prior to separation:  
 Obtain clearance and authorized signature from the following departments

DEPARTMENT	AUTHORIZED SIGNATURE
<b>ICT</b> <ul style="list-style-type: none"> <li>• Municipal Laptop returned</li> <li>• Departmental computer access terminated</li> <li>• Phone sim card returned/arrangement made</li> </ul>	    _____ <b>Supervisor Signature</b>
<b>Human Resources</b> <ul style="list-style-type: none"> <li>• Study Assistance Owing (Yes/No)</li> </ul> If Yes Amount Owing <ul style="list-style-type: none"> <li>• Leave</li> <li>• Salary Advances</li> <li>• Relocation Costs</li> </ul>	    _____ <b>Supervisor Signature</b>
<b>Community Services/MM</b> <ul style="list-style-type: none"> <li>• Speeding /Traffic/Parking fines on Municipal Vehicles</li> </ul>	   _____ <b>Supervisor Signature</b>